

FIFTY NINTH LEGISLATURE - REGULAR SESSION

NINETY FIFTH DAY

House Chamber, Olympia, Thursday, April 14, 2005

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

The flag was escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Elly Falkner and Charlie Lathrum. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Reverend Mary Olney-Loyd, First Christian Church of Olympia.

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

MESSAGE FROM THE SENATE

April 13, 2005

Mr. Speaker:

The Senate has passed:

HOUSE BILL NO. 1294,
HOUSE BILL NO. 1612,
HOUSE BILL NO. 2064,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

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

SECOND READING

SENATE BILL NO. 5501, By Senators Hargrove, Stevens, Delvin, Regala and Shin

Authorizing use of lie detector tests on juvenile court services employment applicants.

The bill was read the second time.

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

Representatives Wood and Sump spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5501.

MOTION

On motion of Representative Clements, Representatives Alexander, Condotta, Ericksen and Tom were excused.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5501 and the bill passed the House by the following vote: Yeas - 92, Nays - 2, Absent - 0, Excused - 4.

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

Voting nay: Representatives Chase and Hasegawa - 2.

Excused: Representatives Alexander, Condotta, Ericksen and Tom - 4.

SENATE BILL NO. 5501, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5309, By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Benton and Kline)

Defining sexual misconduct with a minor.

The bill was read the second time.

With the consent of the House, amendment (398) was withdrawn.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5309.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5309 and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

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

Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 94.

Excused: Representatives Alexander, Condotta, Ericksen and Tom - 4.

SUBSTITUTE SENATE BILL NO. 5309, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5610, By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senator Jacobsen)

Promoting salmon recovery on a regionwide basis.

The bill was read the second time.

On motion of Representative B. Sullivan, the committee amendment by the Committee on Appropriations was before the House for purpose of amendments. (For committee amendment, see Journal, 85th Day, April 4, 2005.)

With the consent of the House, amendments (459) and (427) were withdrawn.

Representative Linville moved the adoption of amendment (500) to the committee amendment:

On page 3, line 34 of the amendment, after "formed" insert "under RCW 77.85.090"

On page 4, line 7 of the amendment, after "identified" strike "in" and insert "or formed under"

On page 4, line 12 of the amendment, after "act." strike all material through "chapter." on line 14

On page 9, line 5 of the amendment, after "(2)" strike all material through "planning." on line 13 and insert:

"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."

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

The amendment to the committee amendment was adopted.

Representative Buck moved the adoption of amendment (404) to the committee amendment:

On page 9, line 19 of the amendment, after "restoration," insert "The allocation of funds for projects to acquire a fee simple interest in land requires legislative approval consistent with subsection (3) of this section."

On page 10, line 14 of the amendment, after "funding," insert "For projects to acquire a fee simple interest in land, the salmon recovery funding board shall submit a prioritized list of all projects to be funded to the legislature for the legislature's approval. The prioritized list must be submitted to the appropriate fiscal committees of the legislature by November 1st each year."

Representatives Buck, Sump and Orcutt spoke in favor of the adoption of the amendment to the committee amendment.

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

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 41 - YEAS; 53 -NAYS.

The amendment to the committee amendment was not adopted.

Representative Buck moved the adoption of amendment (405) to the committee amendment:

On page 10, line 33 of the amendment, after "entity)" strike all material through "RCW 77.85.050, the" on line 34 and insert "((consistent with one or more habitat project lists developed for that region. Where a lead entity has been established pursuant to RCW 77.85.050,)). T"

On page 10, line 36 of the amendment, after "entity to" strike "assist in" and insert "((assist in))"

On page 10, line 37 of the amendment, after "chapter;" strike "project implementation" and insert "implement habitat project lists developed under 77.85.050."

On page 11, beginning on line 1 of the amendment, strike "implementation"

On page 11, line 3 of the amendment, before "grants" insert "block"

On page 11, line 4 of the amendment, after "chapter." insert "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."

Representatives Buck and B. Sullivan spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

The committee amendment as amended was adopted.

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

Representatives B. Sullivan and Buck spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5610, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5610, as amended by the House, and the bill passed the House by the following vote: Yeas - 80, Nays - 14, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Campbell, Chase, Clibborn, Cody, Conway, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Upthegrove, Wallace, Williams, Wood, Woods and Mr. Speaker - 80.

Voting nay: Representatives Buri, Chandler, Clements, Cox, Crouse, Dunn, Hankins, Holmquist, Kretz, Newhouse, Schindler, Serben, Sump and Walsh - 14.

Excused: Representatives Alexander, Condotta, Ericksen and Tom - 4.

SUBSTITUTE SENATE BILL NO. 5610, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE HOUSE

I intended to vote YEA on SUBSTITUTE SENATE BILL NO. 5610.

SHIRLEY HANKINS, 8th District

ENGROSSED SENATE BILL NO. 5962, By Senators Haugen, Schoesler, Rasmussen, Morton, Shin and Delvin

Protecting customary agricultural practices against nuisance actions. (REVISED FOR ENGROSSED: Concerning customary agricultural practices.)

The bill was read the second time.

On motion of Representative Linville, the committee amendment by the Committee on Economic Development, Agriculture & Trade was before the House for purpose of amendments. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Linville moved the adoption of amendment (532) to the committee amendment:

On page 1, after line 28 of the amendment, insert the following: "(5) A farmer may not recover the costs and expenses authorized in this section from a state or local agency that investigates or pursues an enforcement action pursuant to an allegation as specified in subsection (2) of this section."

Representatives Linville and Kretz spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

With the consent of the House, amendment (471) was withdrawn.

The committee amendment as amended was adopted.

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

Representatives Linville, Kretz, Morrell, Clements and Newhouse spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5962, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5962, as amended by the House, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

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

Excused: Representatives Alexander, Condotta, Ericksen and Tom - 4.

ENGROSSED SENATE BILL NO. 5962, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5290, By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Delvin, Rasmussen, Schoesler, Shin, Morton, Jacobsen and Mulliken)

Including goats in theft of livestock in the first degree.

The bill was read the second time.

On motion of Representative O'Brien, the committee amendment by the Committee on Criminal Justice & Correction was adopted. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

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

Representatives Haler, O'Brien and Ahern spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5290, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5290, as amended by the House, and the bill passed the House by the following vote: Yeas - 93, Nays - 1, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 93.

Voting nay: Representative Hunter - 1.

Excused: Representatives Alexander, Condotta, Ericksen and Tom - 4.

SUBSTITUTE SENATE BILL NO. 5290, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5415, By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley and Kline)

Making loans under chapter 31.45 RCW to military borrowers.

The bill was read the second time.

On motion of Representative Kirby, the committee amendment by the Committee on Financial Institutions & Insurance was adopted. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

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

Representative Kirby spoke in favor of passage of the bill.

There being no objection, the House deferred action on ENGROSSED SUBSTITUTE SENATE BILL NO. 5415 and the bill held its place on the Third Reading calendar.

SUBSTITUTE SENATE BILL NO. 5623, By Senate Committee on Ways & Means (originally sponsored by Senators Haugen and Esser)

Modifying the excise taxation of maintenance service agreements for regional transit authorities.

The bill was read the second time.

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

Representatives Hudgins and Woods spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5623.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5623 and the bill passed the House by the following vote: Yeas - 60, Nays - 35, Absent - 0, Excused - 3.

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

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Haler, Hankins, Hinkle, Holmquist, Kretz, Kristiansen, McCune, Newhouse, Orcutt, Pearson, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Walsh and Woods - 35.

Excused: Representatives Condotta, Ericksen and Tom - 3.

SUBSTITUTE SENATE BILL NO. 5623, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 14, 2005

Mr. Speaker:

The Senate has passed:

ENGROSSED HOUSE BILL NO. 1146,
SUBSTITUTE HOUSE BILL NO. 1210,
SECOND SUBSTITUTE HOUSE BILL NO. 1346,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

ENGROSSED SUBSTITUTE SENATE BILL NO. 5121, By Senate Committee on Transportation (originally sponsored by Senators Keiser, Swecker, Poulsen, Schmidt and Haugen)

Assessing long-term air transportation needs.

The bill was read the second time.

On motion of Representative Upthegrove, the committee amendment by the Committee on Transportation was before the House for purpose of amendments. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Upthegrove moved the adoption of amendment (549) to the committee amendment:

Beginning on page 1, line 3 of the amendment, strike everything and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 47.68 RCW to read as follows:

(1) The aviation division of the department of transportation shall conduct a statewide airport capacity and facilities assessment. The assessment must include a statewide analysis of existing airport facilities, and passenger and air cargo transportation capacity, regarding both commercial aviation and general aviation; however, the primary focus of the assessment must be on commercial aviation. The assessment must at a minimum address the following issues:

- (a) Existing airport facilities, both commercial and general aviation, including air side, land side, and airport service facilities;
- (b) Existing air and airport capacity, including the number of annual passengers and air cargo operations;
- (c) Existing airport services, including fixed based operator services, fuel services, and ground services; and
- (d) Existing airspace capacity.

(2) The department shall consider existing information, technical analyses, and other research the department deems appropriate. The department may contract and consult with private independent professional and technical experts regarding the assessment.

(3) The department shall submit the assessment to the appropriate standing committees of the legislature, the governor, the transportation commission, and regional transportation planning organizations by July 1, 2006.

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

(1) After submitting the assessment under section 1 of this act, the aviation division of the department of transportation shall conduct a statewide airport capacity and facilities market analysis. The analysis must include a statewide needs analysis of airport facilities, passenger and air cargo transportation capacity, and demand and forecast market needs over the next twenty-five years with a more detailed analysis of the Puget Sound, southwest Washington, Spokane, and Tri-Cities regions. The analysis must address the forecasted needs of both commercial aviation and general aviation; however, the primary focus of the analysis must be on commercial aviation. The analysis must at a minimum address the following issues:

- (a) A forecast of future airport facility needs based on passenger and air cargo operations and demand, airline planning, and a determination of aviation trends, demographic, geographic, and market factors that may affect future air travel demand;
- (b) A determination of when the state's existing commercial service airports will reach their capacity;
- (c) The factors that may affect future air travel and when capacity may be reached and in which location;
- (d) The role of the state, metropolitan planning organizations, regional transportation planning organizations, the federal aviation administration, and airport sponsors in addressing statewide airport facilities and capacity needs; and
- (e) Whether the state, metropolitan planning organizations, regional transportation planning organizations, the federal aviation administration, or airport sponsors have identified options for addressing long-range capacity needs at airports, or in regions, that will reach capacity before the year 2030.

(2) The department shall consider existing information, technical analyses, and other research the department deems appropriate. The department may contract and consult with private independent professional and technical experts regarding the analysis.

(3) The department shall submit the analysis to the appropriate standing committees of the legislature, the governor, the transportation commission, and regional transportation planning organizations by July 1, 2007.

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

(1) Upon completion of both the statewide assessment and analysis required under sections 1 and 2 of this act, and to the extent funds are appropriated to the department for this purpose, the

governor shall appoint an aviation planning council to consist of the following members: (a) The director of the aviation division of the department of transportation, or a designee; (b) the director of the department of community, trade, and economic development, or a designee; (c) a member of the transportation commission, who shall be the chair of the council; (d) two members of the general public familiar with airport issues, including the impacts of airports on communities, one of whom must be from western Washington and one of whom must be from eastern Washington; (e) a technical expert familiar with federal aviation administration airspace and control issues; (f) a commercial airport operator; (g) a member of a growth management hearings board; (h) a representative of the Washington airport management association; and (i) an airline representative. The chair of the council may designate another councilmember to serve as the acting chair in the absence of the chair. The department of transportation shall provide all administrative and staff support for the council.

(2) The purpose of the council is to make recommendations, based on the findings of the assessment and analysis completed under sections 1 and 2 of this act, regarding how best to meet the statewide commercial and general aviation capacity needs, as determined by the council. The council shall determine which regions of the state are in need of improvement regarding the matching of existing, or projected, airport facilities, and the long-range capacity needs at airports within the region expected to reach capacity before the year 2030. After determining these areas, the council shall make recommendations regarding the placement of future commercial and general aviation airport facilities designed to meet the need for improved aviation planning in the region. The council shall include public input in making final recommendations.

(3) The council shall submit its recommendations to the appropriate standing committees of the legislature, the governor, the transportation commission, and applicable regional transportation planning organizations.

(4) This section expires July 1, 2009.

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

Correct the title.

Representative Upthegrove spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

The committee amendment as amended was adopted.

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

Representatives Wallace, Woods and Upthegrove spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5121, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5121, as amended by the House, and the bill passed the House by the following vote: Yeas - 93, Nays - 2, Absent - 0, Excused - 3.

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

Chandler, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, P., Sump, Takko, Talcott, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 93.

Voting nay: Representatives Roberts and Sullivan, B. - 2.

Excused: Representatives Condotta, Ericksen and Tom -

3.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5121, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5763, By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, Regala, Brandland, Thibaudeau, Carrell, Brown, Keiser, Fairley, McAuliffe, Rasmussen, Kline, Kohl-Welles and Franklin)

Creating the omnibus treatment of mental and substance abuse disorders act of 2005.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Health Care was not adopted. (For committee amendment, see Journal, 85th Day, April 4, 2005.)

Representative Cody moved the adoption of amendment (538):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 10.64 RCW to read as follows:

When a person is convicted of a felony, the court shall require the defendant to sign a statement acknowledging that:

(1) The defendant's right to vote has been lost due to the felony conviction;

(2) If the defendant is registered to vote, the voter registration will be canceled;

(3) The right to vote may be restored by:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order issued by the sentencing court restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020; and

(4) Voting before the right is restored is a class C felony under RCW 29A.84.660.

Sec. 2. RCW 29A.08.010 and 2004 c 267 s 102 are each amended to read as follows:

As used in this chapter: "Information required for voter registration" means the minimum information provided on a voter registration application that is required by the county auditor in order

to place a voter registration applicant on the voter registration rolls. This information includes ~~((the applicant's))~~:

~~(1) Name~~((complete residence))~~;~~

~~(2) Residential address~~((:))~~;~~

~~(3) Date of birth~~((:))~~;~~

~~(4) Washington state driver's license number~~((:))~~ or Washington state identification card number, or the last four digits of the applicant's Social Security number~~((:))~~ if the applicant does not have a Washington state driver's license or Washington state identification card;~~

~~(5) A signature attesting to the truth of the information provided on the application~~((:))~~; and~~

~~(6) A check or indication in the box confirming the individual is a United States citizen.~~

If the individual does not have a driver's license, state identification card, or Social Security number, the registrant must be issued a unique voter registration number ~~((and))~~ in order to be placed on the voter registration rolls. All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote. Modification of the language of the official Washington state voter registration form by the voter will not be accepted and will cause the rejection of the registrant's application.

Sec. 3. RCW 29A.08.030 and 2004 c 267 s 104 are each amended to read as follows:

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

(1) "Verification notice" means a notice sent by the county auditor or secretary of state to a voter registration applicant and is used to verify or collect information about the applicant in order to complete the registration. The verification notice must be designed to include a postage prepaid, preaddressed return form by which the applicant may verify or send information.

(2) "Acknowledgement notice" means a notice sent by nonforwardable mail by the county auditor or secretary of state to a registered voter to acknowledge a voter registration transaction, which can include initial registration, transfer, or reactivation of an inactive registration. An acknowledgement notice may be a voter registration card.

(3) "Confirmation notice" means a notice sent to a registered voter by first class forwardable mail at the address indicated on the voter's permanent registration record and to any other address at which the county auditor or secretary of state could reasonably expect mail to be received by the voter in order to confirm the voter's residence address. The confirmation notice must be designed ~~((so that the voter may update his or her current residence address))~~ to include a postage prepaid, preaddressed return form by which the registrant may verify the address information.

Sec. 4. RCW 29A.08.107 and 2004 c 267 s 106 are each amended to read as follows:

(1) The secretary of state must review the information provided by each voter registration applicant to ensure that ~~((either))~~ the provided driver's license number, state identification card number, or ~~((the))~~ last four digits of the Social Security number match the information maintained by the Washington department of licensing or the Social Security administration. If a match cannot be made, the secretary of state or county auditor must correspond with the applicant to resolve the discrepancy.

(2) If the applicant fails to respond to any correspondence required in this section to confirm information provided on a voter registration application~~((:))~~ within ~~((thirty))~~ forty-five days, the applicant will not be registered to vote. The secretary of state shall forward the application to the appropriate county auditor for document storage.

(3) Only after the secretary of state has confirmed that ~~((an applicant's))~~ the provided driver's license number, state identification card number, or ~~((the))~~ last four digits of the applicant's Social Security number match existing records with the Washington department of licensing or the Social Security administration, or determined that the applicant does not have ~~((either))~~ a driver's license number, state identification card number, or Social Security

number may the applicant be placed on the official list of registered voters.

(4) In order to prevent duplicate registration records, all complete voter registration applications must be screened against existing voter registration records in the official statewide voter registration list. If a match of an existing record is found in the official list, the record must be updated with the new information provided on the application. If the new information indicates that the voter has changed his or her county of residence, the application must be forwarded to the voter's new county of residence for processing.

Sec. 5. RCW 29A.08.110 and 2004 c 267 s 107 are each amended to read as follows:

(1) ~~(On receipt of an application for voter registration, the county auditor shall review the application to determine whether the information supplied is complete.)~~ An application is considered complete only if it contains the applicant's name, complete valid residence address, date of birth, ~~(and)~~ signature attesting to the truth of the information provided, ~~a mark in the check-off box confirming United States citizenship, and an indication ((the license information)) that the provided driver's license number, state identification card number, or Social Security number has been confirmed by the secretary of state. If it is not complete, the auditor shall promptly mail a verification notice of the deficiency to the applicant. This verification notice shall require the applicant to provide the missing information. If the verification notice is not returned by the applicant within forty-five days or is returned as undeliverable ((the auditor shall not place)), the name of the applicant shall not be placed on the ((county voter)) official list of registered voters. If the applicant provides the required verified information, the applicant shall be registered to vote as of the original date of mailing or date of delivery, whichever is applicable ((of the original voter registration application)).~~

(2) ~~(In order to prevent duplicate registration records, all complete voter registration applications must be screened against existing voter registration records in the official statewide voter registration list. If a match of an existing record is found in the official list the record must be updated with the new information provided on the application. If the new information indicates that the voter has changed his or her county of residence, the application must be forwarded to the voter's new county of residence for processing. If the new information indicates that the voter remains in the same county of residence or if the applicant is a new voter the application must be processed by the county of residence.~~

~~---~~ ~~(3))~~ If the information required in subsection (1) of this section is complete, the applicant is considered to be registered to vote as of the original date of mailing or date of delivery, whichever is applicable. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Within forty-five days after the receipt of an application but no later than seven days before the next primary, special election, or general election, the auditor shall send to the applicant, by first class mail, an acknowledgement notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable. ~~((If the registrant has indicated on the form that he or she is registered to vote within the county but has provided a new address within the county that is for voter registration purposes, the auditor shall transfer the voter's registration.~~

~~---~~ ~~(4))~~ (3) If an acknowledgement notice card is properly mailed as required by this section to the address listed by the voter as being the voter's mailing address and the notice is subsequently returned to the auditor by the postal service as being undeliverable to the voter at that address, the auditor shall promptly send the voter a confirmation notice. The auditor shall place the voter's registration on inactive status pending a response from the voter to the confirmation notice.

NEW SECTION. Sec. 6. A new section is added to chapter 29A.08 RCW to read as follows:

No person registering to vote, who meets all the qualifications of a registered voter in the state of Washington, shall be disqualified because of a nontraditional address being used as a residence address. Voters using such an address will be registered and assigned to a precinct based on the location provided. Voters without a traditional address will be registered at the county courthouse, city hall, or other public building near the area that the voter considers his or her residence. Registering at a nontraditional address will not disqualify a voter from requesting ongoing absentee voter status if the voter designates a valid mailing address.

For the purposes of this section, "nontraditional address" includes shelters, parks, or other identifiable locations that the voter deems to be his or her residence.

NEW SECTION. Sec. 7. A new section is added to chapter 29A.08 RCW to read as follows:

(1) If a voter who registered by mail indicates on the voter registration form that he or she does not have a Washington state driver's license, Washington state identification card, or Social Security number, he or she must provide one of the following forms of identification the first time he or she votes after registering:

- (a) Valid photo identification;
- (b) A valid enrollment card of a federally recognized Indian tribe in Washington state;
- (c) A copy of a current utility bill;
- (d) A current bank statement;
- (e) A copy of a current government check;
- (f) A copy of a current paycheck; or
- (g) A government document that shows both the name and address of the voter.

(2) If the voter fails to provide one of the above forms of identification prior to or at the time of voting, the ballot must be treated as a provisional ballot regardless of whether the voter is voting at a poll site or by mail. The ballot may only be counted if the voter's signature on the outside envelope matches the signature in the voter registration records.

(3) The requirements of this section do not apply to an out-of-state, overseas, or service voter who registers to vote by signing the return envelope of the absentee ballot.

Sec. 8. RCW 29A.08.115 and 2004 c 267 s 108 are each amended to read as follows:

A person or organization collecting voter registration application forms must transmit the forms to the secretary of state or a ~~((designee))~~ county auditor at least once weekly. The registration date on such forms will be the date they are received by the secretary of state or county auditor.

Sec. 9. RCW 29A.08.145 and 2004 c 267 s 113 are each amended to read as follows:

This section establishes a special procedure which an elector may use to register to vote or transfer a voter registration by changing his or her address during the period beginning after the closing of registration for voting at the polls under RCW 29A.08.140 and ending on the fifteenth day before a primary, special election, or general election. A qualified elector in the state may register to vote or change his or her registration address in person in the office of the county auditor of the county in which the applicant resides, or at a voter registration location specifically designated for this purpose by the county auditor ~~((of the county in which the applicant resides))~~ or secretary of state, and apply for an absentee ballot for that primary or election. The auditor or registration assistant shall register that individual in the manner provided in this chapter. The application for an absentee ballot executed by the newly registered or transferred voter for the primary or election that follows the execution of the registration shall be promptly transmitted to the auditor with the completed voter registration form.

Sec. 10. RCW 29A.08.210 and 2003 c 111 s 216 are each amended to read as follows:

An applicant for voter registration shall complete an application providing the following information concerning his or her qualifications as a voter in this state:

(1) The address of the last former registration of the applicant as a voter in the state;

(2) The applicant's full name;

(3) The applicant's date of birth;

(4) The address of the applicant's residence for voting purposes;

(5) The mailing address of the applicant if that address is not the same as the address in subsection (4) of this section;

(6) The sex of the applicant;

(7) The applicant's Washington state driver's license number or Washington state identification card number, or the last four digits of the applicant's Social Security number if he or she does not have a Washington state driver's license or Washington state identification card;

(8) A check box for the applicant to indicate that he or she does not have a Washington state driver's license, Washington state identification card, or social security number;

(9) A check box allowing the applicant to indicate that he or she is a member of the armed forces, national guard, or reserves, or that he or she is an overseas voter;

(10) A check box allowing the applicant to confirm that he or she is at least eighteen years of age;

(11) Clear and conspicuous language, designed to draw the applicant's attention, stating that the applicant must be a United States citizen in order to register to vote;

(12) A check box and declaration confirming that the applicant is a citizen of the United States;

(13) The following warning:

"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, a fine of up to ten thousand dollars, or both."

~~((8))~~ (14) The oath required by RCW 29A.08.230 and a space for the applicant's signature; and

~~((9))~~ (15) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and prevent duplicate or fraudulent voter registrations.

This information shall be recorded on a single registration form to be prescribed by the secretary of state.

If the applicant fails to provide the information required for voter registration, the auditor shall send the applicant a verification notice. The ~~((auditor shall not register the))~~ applicant may not be registered until the required information is provided. If a verification notice is returned as undeliverable or the applicant fails to respond to the notice within forty-five days, the ~~((auditor shall not register the))~~ applicant shall not be registered to vote.

~~((The following warning shall appear in a conspicuous place on the voter registration form:~~

~~"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, or by a fine of up to ten thousand dollars, or both imprisonment and fine.")~~

NEW SECTION. Sec. 11. A new section is added to chapter 29A.08 RCW to read as follows:

(1) When a felony offender has completed all the requirements of his or her sentence, the county clerk shall immediately transmit this information to the secretary of state along with information about the county where the conviction occurred and the county that is the last known residence of the offender. The secretary of state shall maintain such records as part of the elections data base.

(2) If the offender has completed all the requirements of all of his or her sentences for all of his or her felony convictions, the secretary of state shall transmit information about the restoration of the former felon's voting rights to the county auditor where the conviction took place and, if different, the county where the felon was last known to reside.

Sec. 12. RCW 29A.08.250 and 2004 c 267 s 117 are each amended to read as follows:

The secretary of state shall furnish registration forms necessary to carry out the registration of voters as provided by this chapter without cost to the respective counties. ~~((All voter registration forms must include clear and conspicuous language, designed to draw an applicant's attention, stating that the applicant must be a United States citizen in order to register to vote. Voter registration application forms must also contain a space for the applicant to provide his or her driver's license number or the last four digits of his or her social security number as well as check boxes intended to allow the voter to indicate age and United States citizenship eligibility under the Help America Vote Act of 2002 (P.L. 107-252).))~~

Sec. 13. RCW 29A.08.330 and 2003 c 111 s 224 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or transfer his or her voter registration by asking the following question:

"Do you want to register to vote or transfer your voter registration?"

If the applicant chooses to register or transfer a registration, the service agent shall ask the following:

(a) "Are you a United States citizen?"

(b) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register to vote or transfer a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration form.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

~~((4))~~ (5) Each designated agency shall provide for the voter registration application forms to be collected from each agency office at least once each week. The agency shall then forward the application forms to the secretary of state each week. The secretary of state shall forward the forms to the county in which the applicant has registered to vote no later than ten days after the date on which the forms were received by the secretary of state.

Sec. 14. RCW 29A.08.520 and 2004 c 267 s 126 are each amended to read as follows:

(1) Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration. Additionally, the secretary of state in conjunction with the department of corrections, the Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies shall arrange for a ~~((periodic))~~ quarterly comparison of a list of known felons with the statewide voter registration list. If a person is found on ~~((the department of corrections))~~ a felon list and the statewide voter registration list, the secretary of state or county auditor shall confirm the match through a date of birth comparison and ~~((cancel))~~ suspend the voter registration from the official state voter registration list. The canceling authority shall send ~~((notice of the proposed cancellation))~~

to the person at his or her last known voter registration address a notice of the proposed cancellation and an explanation of the requirements for restoring the right to vote once all terms of sentencing have been completed. If the person does not respond within thirty days, the registration must be canceled.

(2) The right to vote may be restored by, for each felony conviction, one of the following:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020.

Sec. 15. RCW 29A.08.651 and 2004 c 267 s 101 are each amended to read as follows:

(1) The office of the secretary of state shall create and maintain a statewide voter registration data base. This data base must be a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state.

(2) The computerized list must serve as the single system for storing and maintaining the official list of registered voters throughout the state.

(3) The computerized list must contain the name and registration information of every legally registered voter in the state.

(4) Under the computerized list, a unique identifier is assigned to each legally registered voter in the state.

(5) The computerized list must be coordinated with other agency data bases within the state, including but not limited to the department of corrections, the department of licensing, ~~(and)~~ the department of health, the Washington state patrol, and the office of the administrator for the courts.

(6) Any election officer in the state, including any local election officer, may obtain immediate electronic access to the information contained in the computerized list.

(7) All voter registration information obtained by any local election officer in the state must be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local officer.

(8) The chief state election officer shall provide support, as may be required, so that local election officers are able to enter information as described in subsection (3) of this section.

(9) The computerized list serves as the official voter registration list for the conduct of all elections.

(10) The secretary of state has data authority on all voter registration data.

(11) The voter registration data base must be designed to accomplish at a minimum, the following:

(a) Comply with the Help America Vote Act of 2002 (P.L. 107-252);

(b) Identify duplicate voter registrations;

(c) Identify suspected duplicate voters;

(d) Screen against the department of corrections, the Washington state patrol, and other appropriate state agency data bases to aid in the cancellation of voter registration of felons;

(e) Provide up-to-date signatures of voters for the purposes of initiative signature checking;

(f) Provide for a comparison between the voter registration data base and the department of licensing change of address data base;

(g) Provide online access for county auditors with the goal of real time duplicate checking and update capabilities; and

(h) Provide for the cancellation of voter registration for persons who have moved to other states and surrendered their Washington state drivers' licenses.

(12) The secretary of state must review and update the records of all registered voters on the computerized list on a quarterly basis to make additions and corrections.

Sec. 16. RCW 29A.08.710 and 2004 c 267 s 133 are each amended to read as follows:

(1) The county auditor shall have custody of the original voter registration records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(2) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying, except as provided in RCW 40.24.060: The voter's name, address, political jurisdiction, gender, date of birth, voting record, date of registration, and registration number. ~~((The address and political jurisdiction of a registered voter are available for public inspection and copying except as provided by chapter 40.24 RCW.))~~ No other information from voter registration records or files is available for public inspection or copying.

Sec. 17. RCW 29A.08.720 and 2004 c 266 s 9 are each amended to read as follows:

(1) In the case of voter registration records received through the department of licensing, the identity of the office at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. In the case of voter registration records received through an agency designated under RCW 29A.08.310, the identity of the agency at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW 29A.08.310 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public.

(2) ~~((A#))~~ Subject to the restrictions of RCW 29A.08.710, poll books, precinct lists, and ~~((or))~~ current lists of registered voters, ~~((except original voter registration forms or their images, shall be))~~ are public records and must be made available for public inspection and copying under such reasonable rules and regulations as the county auditor or secretary of state may prescribe. The county auditor or secretary of state shall promptly furnish current lists ~~((or mailing labels))~~ of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information. The lists ~~((and labels))~~ shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the lists ~~((and labels))~~ may be used for any political purpose. The county auditor or secretary of state must provide a copy of RCW 29A.08.740 to the person requesting the material that is released pursuant to this section.

Sec. 18. RCW 29A.08.740 and 2003 c 111 s 249 and 2003 c 53 s 176 are each amended to read as follows:

(1) Any person who uses registered voter data furnished under RCW 29A.08.720 ~~((or 29A.08.730))~~ for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value is guilty of a class C felony punishable by imprisonment in a state correctional facility for a period of not more than five years or a fine of not more than ten thousand dollars or both such fine and imprisonment, and is liable to each person provided such advertisement or solicitation, without the person's consent, for the nuisance value of such person having to dispose of it, which value is herein established at five dollars for each item mailed or delivered to the person's residence. However, a person who mails or delivers any advertisement, offer, or solicitation for a political purpose is not liable under this section unless the person is liable under subsection (2) of this section. For purposes of this subsection, two or more

attached papers or sheets or two or more papers that are enclosed in the same envelope or container or are folded together are one item. Merely having a mailbox or other receptacle for mail on or near the person's residence is not an indication that the person consented to receive the advertisement or solicitation. A class action may be brought to recover damages under this section, and the court may award a reasonable attorney's fee to any party recovering damages under this section.

(2) Each person furnished data under RCW 29A.08.720 (~~or 29A.08.730~~) shall take reasonable precautions designed to assure that the data is not used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the data may be used for any political purpose. Where failure to exercise due care in carrying out this responsibility results in the data being used for such purposes, then such person is jointly and severally liable for damages under subsection (1) of this section along with any other person liable under subsection (1) of this section for the misuse of such data.

Sec. 19. RCW 29A.08.775 and 2004 c 267 s 136 are each amended to read as follows:

Only voters who appear on the official statewide voter registration list are eligible to participate in elections. Each county shall maintain a copy of that county's portion of the state list. The county must ensure that data used for the production of poll lists and other lists and mailings done in the administration of each election are (~~drawn from~~) the same as the official statewide voter registration list.

Sec. 20. RCW 29A.40.091 and 2004 c 271 s 135 are each amended to read as follows:

The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany an absentee ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The larger return envelope must contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The return envelope must provide a box the voter may check to indicate that he or she is a member of the armed forces or that he or she is an overseas voter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

Sec. 21. RCW 46.20.155 and 2004 c 249 s 7 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or transfer his or her voter registration by asking the following question:

"Do you want to register to vote or transfer your voter registration?"

If the applicant chooses to register or transfer a registration, the agent shall ((state)) ask the following:

~~("I would like to remind you that you must be a United States citizen and at least eighteen years of age in order to vote.")~~

(1) "Are you a United States citizen?"

(2) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register to vote or transfer a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration form.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

NEW SECTION. Sec. 22. The following acts or parts of acts are each repealed:

(1) RCW 29A.08.155 (Payment for maintenance of electronic records) and 2004 c 267 s 114 & 2003 c 111 s 215; and

(2) RCW 29A.08.730 (Registration, voting—Furnishing data upon request—Cost—Use restricted) and 2003 c 111 s 248, 1994 c 57 s 6, and 1973 1st ex. s. c 111 s 3.

NEW SECTION. Sec. 23. This act takes effect January 1, 2006."

Correct the title.

Representative Cody moved the adoption of amendment (539) to amendment (538):

On page 55, line 33 of the amendment, after "property." insert:
 "(3) The person has the right to refuse to participate in an expanded community services program or, except where subject to commitment, to reside at an enhanced services facility. No person shall be denied other department services on the grounds that he or she has made such a refusal.

(4) Prior to assessment, the department shall notify any person for whom referral to the enhanced community services program or an enhanced services facility is under consideration, and shall provide that person with an opportunity to review and comment on all information that is included in the assessment. All information considered in the assessment shall be made available to the person or his or her legal guardian or other legal representative, where relevant, prior to final determination.

(5) In determining that a person has a history of unsuccessful placements, the department shall document the reasons for failure, and possible supports that could be provided that would improve the chances of success, prior to making a determination regarding the likelihood of future unsuccessful placement.

(6) The person has a right to appeal the decision of the department that he or she is eligible for placement at an enhanced services facility, and shall be given notice of the right to appeal in a format that is accessible to the person with instructions regarding what to do if the person wants to appeal."

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

The amendment to the amendment was adopted.

Representative Lantz moved the adoption of amendment (540) to amendment (538):

On page 55, line 35 of the amendment, after "facility" strike "or" and all material through "chapter," on page 56, line 1

On page 56, line 10 of the amendment, after "(c)" strike "Every" and insert "At the time of admission, and at the time of his or her treatment planning meeting, every"

On page 56, line 11 of the amendment, after "section" insert ", and if he or she is not able to read or understand the statement, shall have the statement explained in language that he or she can understand or presented in a format that is accessible. The department shall by rule develop a statement and process for informing residents of their rights"

On page 56, line 13 of the amendment, after "treatment" insert "and shall have the right to actively participate in treatment planning and decision-making"

On page 56, after line 13 of the amendment, insert the following:
 "(3) Treatment planning shall include planning for a safe and successful discharge and reintegration into the community, and shall commence immediately upon placement at an enhanced services facility."

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

On page 57, line 14 of the amendment, after "discuss" insert the following: "and actively participate in"

On page 57, line 20 of the amendment, after "issue" insert the following:

"; and

(k) To complain about rights violations or conditions and request the assistance of a mental health ombudsman, representative of Washington protection and advocacy, or other advocate of his or her choice"

On page 57, after line 25 of the amendment, insert the following:
 "(9) Enhanced services facilities and expanded community services programs shall maintain a grievance procedure that meets the requirements of rules established by the department."

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

The amendment to the amendment was adopted.

Representative Lantz moved the adoption of amendment (541) to amendment (538):

On page 58, line 29 of the amendment, strike "as necessary" and insert "with a full review every ninety days or sooner if clinically necessary,"

On page 58, line 30 of the amendment, after "discharge" insert "and supported reintegration into the community. Discharge planning shall commence immediately upon placement at an enhanced services facility"

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

The amendment to the amendment was adopted.

Representative Lantz moved the adoption of amendment (542) to amendment (538):

On page 60, line 17 of the amendment, after "ombudsman" insert ", Washington protection and advocacy system"

On page 60, after line 18 of the amendment, insert the following:

"(5) Each enhanced services facility will post in a prominent place in a common area a notice by the Washington protection and advocacy system providing contact information."

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

The amendment to the amendment was adopted.

Representative Sommers moved the adoption of amendment (545) to amendment (538):

On page 76, line 21, strike all of new section 605.

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

The amendment to the amendment was adopted.

Representative Cody moved the adoption of amendment (547) to amendment (538):

On page 96, line 15 of the amendment, strike all of new section 805

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

Representatives Cody and Hinckle spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Amendment (538) as amended was adopted.

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

Representatives Cody, Flannigan, Hinkle, Moeller and Eickmeyer spoke in favor of passage of the bill.

Representatives Bailey and Alexander spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5763, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5763, as amended by the House, and the bill passed the House by the following vote: Yeas - 73, Nays - 22, Absent - 0, Excused - 3.

Voting yea: Representatives Appleton, Armstrong, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace,

Walsh, Williams, Wood, Woods and Mr. Speaker - 73.

Voting nay: Representatives Ahern, Alexander, Anderson, Bailey, Chandler, Crouse, Curtis, DeBolt, Dunn, Kretz, Kristiansen, Newhouse, Nixon, Orcutt, Pearson, Roach, Rodne, Schindler, Serben, Shabro, Sump and Talcott - 22.

Excused: Representatives Condotta, Ericksen and Tom - 3.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5763, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SENATE BILL NO. 5094, By Senator Jacobsen

Changing the maximum per parcel rate for conservation district special assessments.

The bill was read the second time.

On motion of Representative Cody, the committee amendment by the Committee on Economic Development, Agriculture & Trade was adopted. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Linville moved the adoption of amendment (422):

On page 4, line 10 after "work." strike all material through "section." on line 13 and insert: "All remaining collected funds shall be used for conservation district purposes."

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

The amendment was adopted.

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

Representative Linville spoke in favor of passage of the bill.

Representative Kristiansen spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5094, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5094, as amended by the House, and the bill passed the House by the following vote: Yeas - 56, Nays - 39, Absent - 0, Excused - 3.

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

and Mr. Speaker - 56.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Haler, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Roach, Rodne, Schindler, Sells, Serben, Shabro, Skinner, Strow, Sump, Talcott, Walsh and Woods - 39.

Excused: Representatives Condotta, Ericksen and Tom - 3.

ENGROSSED SENATE BILL NO. 5094, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on ENGROSSED SENATE BILL NO. 5094.

FRED JARRETT, 41st District

ENGROSSED SUBSTITUTE SENATE BILL NO. 5983, By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Pflug, Schmidt, Esser, Delvin and Benson)

Regarding professional certification of teachers.

The bill was read the second time.

On motion of Representative Quall, the committee amendment by the Committee on Education was before the House for purpose of amendments. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

With the consent of the House, amendment (550) was withdrawn.

Representative Hunter moved the adoption of amendment (558) to the committee amendment:

Beginning on page 1, line 10 of the amendment, strike all of sections 2 and 3 and insert the following:

"NEW SECTION. Sec. 2. A new section is added to chapter 28A.410 RCW to read as follows:

The agency responsible for educator certification shall adopt rules for professional certification that:

(1) Provide maximum program choice for applicants, promote portability among programs, and promote maximum efficiency for applicants in attaining professional certification;

(2) Require professional certification no earlier than the fifth year following the year that the teacher first completes provisional status, with an automatic two-year extension upon enrollment;

(3) Grant professional certification to any teacher who attains certification from the national board for professional teaching standards;

(4) Permit any teacher currently enrolled in or participating in a program leading to professional certification to continue the program under administrative rules in place when the teacher began the program;

(5) Provide criteria for the approval of educational service districts, beginning no later than August 31, 2007, to offer programs leading to professional certification. The rules shall be written to encourage institutions of higher education and educational service districts to partner with local school districts or consortia of school districts, as appropriate, to provide instruction for teachers seeking professional certification;

(6) Encourage institutions of higher education to offer

professional certificate coursework as continuing education credit hours. This shall not prevent an institution of higher education from providing the option of including the professional certification requirements as part of a master's degree program;

(7) Provide criteria for a liaison relationship between approved programs and school districts in which applicants are employed;

(8) Identify an expedited professional certification process for out-of-state teachers who have five years or more of successful teaching experience to demonstrate skills and impact on student learning commensurate with Washington requirements for professional certification. The rules may require these teachers, within one year of the time they begin to teach in the state's public schools, take a course in or show evidence that they can teach to the state's essential academic learning requirements; and

(9) Identify an evaluation process of approved programs that includes a review of the program coursework and applicant coursework load requirements, linkages of programs to individual teacher professional growth plans, linkages to school district and school improvement plans, and, to the extent possible, linkages to school district professional enrichment and growth programs for teachers, where such programs are in place in school districts. The agency shall provide a preliminary report on the evaluation process to the senate and house of representatives committees on education policy by November 1, 2005. The board shall identify:

(a) A process for awarding conditional approval of a program that shall include annual evaluations of the program until the program is awarded full approval;

(b) A less intensive evaluation cycle every three years once a program receives full approval unless the responsible agency has reason to intensify the evaluation;

(c) A method for investigating programs that have received numerous complaints from students enrolled in the program and from those recently completing the program;

(d) A method for investigating programs at the reasonable discretion of the agency; and

(e) A method for using, in the evaluation, both program completer satisfaction responses and data on the impact of educators who have obtained professional certification on student work and achievement."

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

The amendment to the committee amendment was adopted.

The committee amendment as amended was adopted.

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

Representatives Hunter and Talcott spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5983, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5983, as amended by the House, and the bill passed the House by the following vote: Yeas - 95, Nays - 1, Absent - 0, Excused - 2.

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

Green, Haigh, Haler, Hankins, Hasegawa, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representative Hinkle - 1.

Excused: Representatives Condotta and Tom - 2.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5983, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SENATE BILL NO. 5089, By Senators Sheldon, Fraser and Kline

Limiting nuisance noise from off-road vehicles. (REVISED FOR ENGROSSED: Creating a task force to study off-road vehicle noise management.)

The bill was read the second time.

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

Representative Upthegrove spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5089.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5089 and the bill passed the House by the following vote: Yeas - 90, Nays - 6, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Conway, Cox, Curtis, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 90.

Voting nay: Representatives Anderson, Crouse, DeBolt, Dunn, Hudgins and Schindler - 6.

Excused: Representatives Condotta and Tom - 2.

ENGROSSED SENATE BILL NO. 5089, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5850, By Senate

Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Spanel, Keiser, Kohl-Welles and Shin)

Clarifying the definition of "sick leave" for family leave.

The bill was read the second time.

On motion of Representative Conway, the committee amendment by the Committee on Education was adopted. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Conway moved the adoption of amendment (551):

On page 1, beginning on line 18, strike all of subsection (5) and insert the following:

"(5) "Sick leave or other paid time off" means time allowed under the terms of an appropriate state law, collective bargaining agreement, or employer policy, as applicable, to an employee for illness, vacation, and personal holiday. If paid time is not allowed to an employee for illness, "sick leave or other paid time off" also means time allowed under the terms of an appropriate state law, collective bargaining agreement, or employer policy, as applicable, to an employee for disability under a plan, fund, program, or practice that is: (a) Not covered by the employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et seq.; and (b) not established or maintained through the purchase of insurance."

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

Representative Sump spoke against the adoption of the amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 57 - YEAS; 39 -NAYS.

The amendment was adopted.

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

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

Representative Sump spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5850, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5850, as amended by the House, and the bill passed the House by the following vote: Yeas - 58, Nays - 38, Absent - 0, Excused - 2.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Curtis, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McIntire, Miloscia, Moeller, Morrell,

Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 58.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Cox, Crouse, Darneille, DeBolt, Dunn, Ericksen, Haler, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Walsh and Woods - 38.

Excused: Representatives Condotta and Tom - 2.

SUBSTITUTE SENATE BILL NO. 5850, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5992, By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles and Parlette)

Modifying self-insurer assessments under the second injury fund.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Commerce & Labor was not adopted. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Conway moved adoption of amendment (557):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.44.040 and 1982 c 63 s 14 are each amended to read as follows:

(1) There shall be in the office of the state treasurer, a fund to be known and designated as the "second injury fund", which shall be used only for the purpose of defraying charges against it as provided in RCW 51.16.120 and 51.32.250(~~as now or hereafter amended. Said~~). The fund shall be administered by the director. The state treasurer shall be the custodian of the second injury fund and shall be authorized to disburse moneys from it only upon written order of the director.

(2) Payments to the second injury fund from the accident fund shall be made pursuant to rules ~~((and regulations promulgated))~~ adopted by the director.

(3)(a) Assessments for the second injury fund shall be imposed on self-insurers pursuant to rules ~~((and regulations promulgated by the director to ensure that self-insurers shall pay to such fund))~~ adopted by the director. Such rules shall provide for at least the following:

(i) Except as provided in (a)(ii) of this subsection, the amount assessed each self-insurer must be in the proportion that the payments made from ((such)) the fund on account of claims made against self-insurers bears to the total sum of payments from ((such)) the fund.

(ii) Except as provided in section 2 of this act, beginning with assessments imposed on or after July 1, 2009, the department shall experience rate the amount assessed each self-insurer as long as the aggregate amount assessed is in the proportion that the payments made from the fund on account of claims made against self-insurers bears to the total sum of payments from the fund. The experience rating factor must provide equal weight to the ratio between expenditures made by the second injury fund for claims of the self-insurer to the total expenditures made by the second injury fund for claims of all self-insurers for the prior three fiscal years and the ratio

of workers' compensation claim payments under this title made by the self-insurer to the total worker's compensation claim payments made by all self-insurers under this title for the prior three fiscal years. The weighted average of these two ratios must be divided by the latter ratio to arrive at the experience factor.

(b) For purposes of this subsection, "expenditures made by the second injury fund" mean the costs and charges described under RCW 51.32.250 and 51.16.120 (3) and (4), and the amounts assessed to the second injury fund as described under RCW 51.16.120(1). Under no circumstances does "expenditures made by the second injury fund" include any subsequent payments, assessments, or adjustments for pensions, where the applicable second injury fund entitlement was established outside of the three fiscal years.

NEW SECTION. Sec. 2. (1) If the outcome study conducted by the department of labor and industries under subsection (2)(a)(i) or (ii) of this section shows a negative impact of fifteen percent or more to workers following claim closure among nonpension self-insured claimants, 2005 c . . . s 1 (section 1 of this act) expires June 30, 2013.

(2) The department shall conduct an outcome study of the experience rating system established in 2005 c . . . s 1 (section 1 of this act). In conducting the study, the department must:

(a) Compare the outcomes for workers of self-insured employers whose industrial insurance claims with temporary total disability benefits for more than thirty days are closed between July 1, 2002, and June 30, 2004, with similar claims of workers of self-insured employers closed between July 1, 2009, and June 30, 2011. For the purposes of subsection (1) of this section, the department must provide two separate comparisons of such workers as follows: (i) The first comparison includes the aggregate preinjury wages for all nonpension injured workers compared with their aggregate wages at claim closure in each of the two study groups; and (ii) the second comparison includes the proportion of all nonpension injured workers who are found able to work but have not returned to work, as reported by self-insurers in the eligibility assessment reports submitted to the department on the claims in the first study group, compared with the proportion of such workers who are found able to work but have not returned to work, as reported in the eligibility assessment reports submitted on claims in the second study group;

(b) Study whether the workers potentially impacted by the experience rating program have improved return-to-work outcomes, whether the number of impacted workers found to be employable increases, whether there is a change in long-term disability outcomes among the impacted workers, and whether the number of permanent total disability pensions among impacted workers is affected and, if so, the nature of the impact; and

(c) Develop, in consultation with representatives of the impacted workers and the self-insured community, a study methodology that must be provided to the workers' compensation advisory committee for review and comment. The study methodology must include appropriate controls to account for economic fluctuation, wage inflation, and other independent variables.

(3) The department must report to the appropriate committees of the legislature by December 1, 2012, on the results of the study."

Correct the title.

Representative Conway spoke in favor of adoption of the amendment.

The amendment was adopted.

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

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

The Speaker (Representative Lovick presiding) stated the

question before the House to be the final passage of Substitute Senate Bill No. 5992, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5992, as amended by the House, and the bill passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

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

Excused: Representatives Condotta and Tom - 2.

SUBSTITUTE SENATE BILL NO. 5992, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5396, By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Fraser, Esser, Jacobsen, Oke, Regala, Swecker, Rockefeller, Spanel, Pridemore, Thibaudeau, Haugen and Kline)

Expanding the criteria for habitat conservation programs.

The bill was read the second time.

On motion of Representative Dunshee, the committee amendment by the Committee on Capital Budget was before the House for purpose of amendments. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Schindler moved the adoption of amendment (553) to the committee amendment:

On page 2, line 3 of the amendment, after "rivers," insert "The term "riparian habitat" does not include areas outside of any critical areas associated with the water body and any adjacent buffers."

On page 7, line 6 of the amendment, after "eligible," insert "The acquisition of a real property interest cannot occur outside of any critical areas associated with the water body and any adjacent buffers."

Representative Schindler spoke in favor of the adoption of the amendment to the committee amendment.

Representative Dunshee spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

Representative Schindler moved the adoption of amendment (484) to the committee amendment:

On page 6, beginning on line 30 of the amendment, strike all of section 6

On page 9, beginning on line 18 of the amendment, strike all of section 7

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

Representative Schindler spoke in favor of the adoption of the amendment to the committee amendment.

Representative Dunshee spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

Representative DeBolt moved the adoption of amendment (496) to the committee amendment:

On page 7, line 6 of the amendment, after "eligible." insert "At least fifty percent of riparian protection account funds must be used for the acquisition of nonperpetual real property interests with terms not exceeding fifty years in duration."

On page 9, line 34 of the amendment, after "interest." insert "However, at least fifty percent of farmland preservation account funds shall be used to acquire nonperpetual real property interests with terms not exceeding fifty years in duration."

Representatives DeBolt and DeBolt (again) spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Dunshee and Flannigan spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

Representative Schindler moved the adoption of amendment (554) to the committee amendment:

On page 7, line 15 of the amendment, after "account." insert "Not less than fifteen percent of the moneys appropriated from the riparian protection account shall be used for operation and maintenance of areas acquired under this chapter."

Representative Schindler spoke in favor of the adoption of the amendment to the committee amendment.

Representative Dunshee spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

Representative Dunshee moved the adoption of amendment (467) to the committee amendment:

On page 8, line 9 of the amendment, after "owned." strike all material through "purpose." on line 13

On page 17, line 12 of the amendment, after "owned." strike all

material through "purpose." on line 16

On page 17, line 32 of the amendment, after "owned." strike all material through "purpose." on line 36

On page 26, after line 14 of the amendment, insert:
"NEW SECTION. Sec. 18. (1) The interagency committee for outdoor recreation, the department of fish and wildlife, the department of natural resources, and counties shall work together to obtain necessary information to complete a report on the fiscal impact of payments in lieu of taxes provided for in this act.

(2) The report shall include a financial analysis determining the difference by county, for those counties having less than thirty percent of their total land in private ownership, of assessing property taxes on lands acquired under this chapter by state agencies based on one hundred percent of a property's true and fair value compared to assessing property as open space under chapter 84.34 RCW. The analysis shall also compare the fiscal impacts of using these different property tax rates by those counties for existing game lands held by the department of fish and wildlife and natural areas managed by the department of natural resources.

(3) The interagency committee for outdoor recreation shall provide the report to the appropriate committees of the legislature by December 1, 2005."

Correct the title.

Representatives Dunshee, Jarrett, DeBolt and Kretz spoke in favor of the adoption of the amendment to the committee amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 94 - YEAS; 2 -NAYS.

The amendment to the committee amendment was adopted.

Representative Schindler moved the adoption of amendment (485) to the committee amendment:

On page 9, line 17 of the amendment, after "requirement." insert the following:

"(12) (a) If the acquisition of property interests for riparian protection from the riparian protection account under this chapter reduces the development potential of that land in a county or city planning under RCW 36.70A.040:

(i) The county must determine the acreage and qualitative reduction in land suitable for development within the county and docket that amount as a deficiency to the planning director of the county in which the land is located;

(ii) By December 31, 2005, and at least every five years thereafter, each county shall increase the total amount of land suitable for development within the county by the total docketed acreage deficiency pursuant to (a)(i) of this subsection, with comparable qualitative land characteristics, through enactment of a county ordinance.

(b) As used in this subsection:

(i) "Docketing" means compiling and maintaining a detailed list, available to the public, of acreage and land use deficiencies in a manner that ensures the deficiencies will be presented for the periodic county action;

(ii) "Qualitative land characteristics" means the designated use of the land in deficiency, its suitability for development, and the general location of that land within the county, its physical characteristics, and the availability of urban governmental services for the land."

Representatives Schindler and Orcutt spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Dunshee and Simpson spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

The committee amendment as amended was adopted.

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

Representatives Dunshee, Jarrett, Simpson spoke in favor of passage of the bill.

Representatives Schindler, Armstrong, Kretz, Ericksen, Armstrong (again), Buck, Sump, Orcutt, Clements and Kretz (again) spoke against the passage of the bill.

SPEAKER'S RULING

Mr. Speaker (Representative Lovick presiding): "The Speaker recognizes that members have strong views on the legislation under consideration. The rules of debate are designed specifically to ensure that the interchange of such views does not degenerate into a dispute. The tone of some remarks this evening has not been in keeping with the decorum expected of members of this body. The Speaker would ask that each of you be respectful of your colleagues, opposing views, and this institution."

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5396, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5396, as amended by the House, and the bill passed the House by the following vote: Yeas - 60, Nays - 36, Absent - 0, Excused - 2.

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

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Blake, Buck, Buri, Chandler, Clements, Clibborn, Cox, Crouse, Curtis, DeBolt, Dunn, Flannigan, Haler, Hinkle, Holmquist, Kessler, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Roach, Schindler, Serben, Shabro, Skinner, Sump, Talcott and Woods - 36.

Excused: Representatives Condotta and Tom - 2.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5396, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5602, By Senate Committee on Agriculture & Rural Economic

Development (originally sponsored by Senators Rasmussen and Schoesler; by request of Department of Agriculture)

Managing livestock nutrients.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Economic Development, Agriculture & Trade was not adopted. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Pettigrew moved adoption of amendment (536):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) This chapter applies to all operations that meet the definition of an animal feeding operation.

(2)(a) This chapter creates specific permit requirements consistent with state and federal water quality laws for concentrated animal feeding operations.

(b) All dairies are required to implement nutrient management plans and perform certain reporting.

(c) AFOs that are not CAFOs or dairies are not required to have a plan under this chapter and are only required to obtain a permit if it has been determined by the department that they are discharging to the waters of the state. However, no AFO is allowed to pollute waters of the state, and all AFOs may be inspected by the department under this chapter.

Sec. 2. RCW 90.64.005 and 1998 c 262 s 1 are each amended to read as follows:

The legislature finds that there is a need ~~((to establish a clear and understandable process that provides for the proper and effective management of dairy nutrients that affect the quality of surface or ground waters in the state of Washington. The legislature finds that there is a need for a program that will provide a stable and predictable business climate upon which dairy farms may base future investment decisions.~~

~~— The legislature finds that federal regulations require a permit program for dairies with over seven hundred head of mature cows and, other specified dairy farms that directly discharge into waters or are otherwise significant contributors of pollution. The legislature finds that significant work has been ongoing over a period of time and that the intent of this chapter is to take the consensus that has been developed and place it into statutory form.~~

~~— It is also the intent of this chapter to establish an inspection and technical assistance program for dairy farms to address the discharge of pollution to surface and ground waters of the state that will lead to water quality compliance by the industry. A further purpose is to create a balanced program involving technical assistance, regulation, and enforcement with coordination and oversight of the program by a committee composed of industry, agency, and other representatives. Furthermore, it is the objective of this chapter to maintain the administration of the water quality program as it relates to dairy operations at the state level.~~

~~— It is also the intent of this chapter to recognize the existing working relationships between conservation districts, the conservation commission, and the department of ecology in protecting water quality of the state. A further purpose of this chapter is to provide statutory recognition of the coordination of the functions of conservation districts, the conservation commission, and the department of ecology pertaining to development of dairy waste management plans for the protection of water quality)) for an effective livestock nutrient management program for all AFOs that meets federal and state water quality rules. The goals of the program are to provide clear guidance to animal feeding operations about their responsibilities under state and federal water quality laws and to~~

implement the necessary program requirements in a consistent manner that will maintain a healthy and productive livestock industry in Washington state while preventing degradation of water quality. It is the intent of the legislature that the department of agriculture continues the existing program for all licensed dairies, implements the revised program for CAFOs and AFOs, and carries out effective, fair, and equitable enforcement.

Sec. 3. RCW 90.64.010 and 1998 c 262 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) ~~("Advisory and oversight committee" means a balanced committee of agency, dairy farm, and interest group representatives convened to provide oversight and direction to the dairy nutrient management program;~~

~~(2) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility;~~

~~(3) "Catastrophic" means a tomado, hurricane, earthquake, flood, or other extreme condition that causes an overflow from a required waste retention structure;~~

~~(4)) "Department" means the department of agriculture of the state of Washington.~~

~~(2) "Director" means the director of the department or the director's designee.~~

~~(3) "Animal feeding operation" or "AFO" means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:~~

~~(a) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and~~

~~(b) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.~~

~~(4) "Certification" means:~~

~~(a) The acknowledgment by ((a local conservation district)) the department that a ((dairy)) livestock producer has constructed or otherwise put in place the elements and management necessary to implement his or her ((dairy)) livestock nutrient management plan; and~~

~~(b) The acknowledgment by a ((dairy)) livestock producer that he or she is managing ((dairy)) livestock nutrients and maintaining records as specified in his or her approved ((dairy)) livestock nutrient management plan.~~

~~(5) ("Chronic" means a series of wet weather events that precludes the proper operation of a dairy nutrient management system that is designed for the current herd size.~~

~~(6)) "Conservation commission" or "commission" means the conservation commission under chapter 89.08 RCW.~~

~~((7)) (6) "Conservation districts" or "district" means a subdivision of state government organized under chapter 89.08 RCW.~~

~~((8)) (7) "Concentrated ((dairy)) animal feeding operation" or "CAFO" means ((a dairy animal feeding operation subject to regulation under this chapter which the director designates)) an AFO that is defined as a large CAFO or as a medium CAFO under this section, or that is designated as a CAFO under RCW 90.64.020 ((or meets the following criteria:~~

~~(a) Has more than seven hundred mature dairy cows, whether milked or dry cows, that are confined; or~~

~~(b) Has more than two hundred head of mature dairy cattle, whether milked or dry cows, that are confined and either:~~

~~(i) From which pollutants are discharged into navigable waters through a manmade ditch, flushing system, or other similar manmade device; or~~

~~(ii) From which pollutants are discharged directly into surface or ground waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.~~

~~(9) "Dairy animal feeding operation" means a lot or facility where the following conditions are met:~~

~~(a) Dairy animals that have been, are, or will be stabled or confined and fed for a total of forty-five days or more in any twelve-~~

~~month period; and~~

~~(b) Crops, vegetation forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more dairy animal feeding operations under common ownership are considered, for the purposes of this chapter, to be a single dairy animal feeding operation if they adjoin each other or if they use a common area for land application of wastes.~~

~~(10)) (as recodified by this act). Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of livestock nutrients.~~

~~(8) "Dairy ((farm))" means any farm that is licensed to produce milk under chapter 15.36 RCW.~~

~~((11) "Dairy nutrient" means any organic waste produced by dairy cows or a dairy farm operation.~~

~~(12) "Dairy nutrient management plan" means a plan meeting the requirements established under RCW 90.64.026.~~

~~(13) "Dairy nutrient management technical assistance team" means one or more professional engineers and local conservation district employees convened to serve one of four distinct geographic areas in the state.~~

~~(14) "Dairy producer" means a person who owns or operates a dairy farm.~~

~~(15) "Department" means the department of ecology under chapter 43.21A RCW.~~

~~(16) "Director" means the director of the department of ecology, or his or her designee.~~

~~(17) "Upset" means an exceptional incident in which there is an unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the dairy. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.~~

~~(18) "Violation" means the following acts or omissions: (a) A discharge of pollutants into the waters of the state, except those discharges that are due to a chronic or catastrophic event, or to an upset as provided in 40 C.F.R. Sec. 122.41, or to a bypass as provided in 40 C.F.R. Sec. 122.41, and that occur when:~~

~~(i) A dairy producer has a current national pollutant discharge elimination system permit with a wastewater system designed, operated, and maintained for the current herd size and that contains all process-generated wastewater plus average annual precipitation minus evaporation plus contaminated storm water runoff from a twenty-five year, twenty-four hour rainfall event for that specific location, and the dairy producer has complied with all permit conditions, including dairy nutrient management plan conditions for appropriate land application practices; or~~

~~(ii) A dairy producer does not have a national pollutant discharge elimination system permit, but has complied with all of the elements of a dairy nutrient management plan that: Prevents the discharge of pollutants to waters of the state, is commensurate with the dairy producer's current herd size, and is approved and certified under RCW 90.64.026;~~

~~(b) Failure to register as required under RCW 90.64.017; or~~

~~(c) The lack of an approved dairy nutrient management plan by July 1, 2002; or~~

~~(d) The lack of a certified dairy nutrient management plan for a dairy farm after December 31, 2003;))~~

~~(9) "Large concentrated animal feeding operation" or "large CAFO" means an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:~~

~~(a) 700 mature dairy cows, whether milked or dry;~~

~~(b) 1,000 veal calves;~~

~~(c) 1,000 cattle other than mature dairy cows or veal calves.~~

~~Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs;~~

~~(d) 2,500 swine each weighing 55 pounds or more;~~

~~(e) 10,000 swine each weighing less than 55 pounds;~~

~~(f) 500 horses;~~

~~(g) 10,000 sheep or lambs;~~

(h) 55,000 turkeys;
(i) 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;

(j) 125,000 chickens, other than laying hens, if the AFO uses other than a liquid manure handling system;

(k) 82,000 laying hens, if the AFO uses other than a liquid manure handling system;

(l) 30,000 ducks, if the AFO uses other than a liquid manure handling system; or

(m) 5,000 ducks, if the AFO uses a liquid manure handling system.

(10) "Livestock nutrient" means manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal or process wastewater, which means water directly or indirectly used in the operation of the AFO for any or all of the following: Spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

(11) "Livestock producer" means an owner or operator of an AFO, CAFO, or dairy.

(12) "Medium concentrated animal feeding operation" or "medium CAFO" means any AFO with the type and number of animals that fall within any of the ranges listed below and which has been defined or designated as a CAFO. An AFO is defined as a medium CAFO if:

(a) The type and number of animals that it stables or confines falls within any of the following ranges:

(i) 200 to 699 mature dairy cows, whether milked or dry;

(ii) 300 to 999 veal calves;

(iii) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs;

(iv) 750 to 2,499 swine each weighing 55 pounds or more;

(v) 3,000 to 9,999 swine each weighing less than 55 pounds;

(vi) 150 to 499 horses;

(vii) 3,000 to 9,999 sheep or lambs;

(viii) 16,500 to 54,999 turkeys;

(ix) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;

(x) 37,500 to 124,999 chickens, other than laying hens, if the AFO uses other than a liquid manure handling system;

(xi) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;

(xii) 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or

(xiii) 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and

(b) Either one of the following conditions are met:

(i) Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or

(ii) Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(13) "Permit" means either a state waste discharge permit or a national pollutant discharge elimination system (NPDES) permit, or both.

(14) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatsoever.

(15) "Plan" means a livestock nutrient management plan.

(16) "Pollution" means contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic,

commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(17) "Small concentrated animal feeding operation" or "small CAFO" means an AFO that is designated as a CAFO and is not a medium CAFO.

(18) "Waters" or "waters of the state" means lakes, rivers, ponds, streams, inland waters, underground waters, saltwaters, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

Sec. 4. RCW 90.64.020 and 1993 c 221 s 3 are each amended to read as follows:

(1) The director ((of the department of ecology may)) shall designate any ((dairy animal feeding operation as a concentrated dairy animal feeding operation)) AFO as a CAFO upon determining that it is a significant contributor of pollution to the ((surface or ground)) waters of the state.

(2) The director may designate any AFO as a CAFO upon determining that it is discharging to the waters of the state.

(3) In making ((this)) a designation, the director shall consider the following factors:

(a) The size of the ((animal feeding operation)) AFO and the amount of ((wastes)) livestock nutrients reaching waters of the state;

(b) The location of the ((animal feeding operation)) AFO relative to waters of the state;

(c) The means of conveyance of ((animal wastes and process waters)) livestock nutrients into the waters of the state;

(d) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of ((animal wastes and process wastewaters)) livestock nutrients into the waters of the state; ((and))

(e) The effort by the AFO to stop the discharge; and

(f) Other relevant factors as established by the department by rule.

((2) A notice of intent to apply for a permit shall not be required from a concentrated dairy animal feeding operation designated under this section until the director has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program.))

(4) An AFO shall not be designated as a CAFO under this section unless the director has conducted an on-site inspection of the operation and determined that the operation should be regulated under the permit program. In addition, no AFO with numbers of animals below those for a medium CAFO may be designated as a CAFO unless:

(a) Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or

(b) Pollutants are discharged directly into waters of the state which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(5) Any AFO designated as a CAFO shall apply for a permit as described in section 22 of this act.

Sec. 5. RCW 90.64.023 and 1998 c 262 s 5 are each amended to read as follows:

(1) ((By October 1, 1998, the department shall initiate an inspection program of all dairy farms in the state. The purpose of the inspections is to:

(a)) The department has the authority to conduct inspections under this chapter to:

(a) Determine if an animal feeding operation meets the definition of a CAFO under this chapter;

(b) Ensure compliance by AFOs, CAFOs, and dairies with state and federal water quality laws and rules, including those adopted under chapter 90.48 RCW;

(c) Determine whether a permitted CAFO is complying with the terms and conditions of its permit;

(d) Survey for evidence of violations;

((b)) (e) Identify corrective actions for actual or imminent discharges that violate or could violate the state's water quality standards or this chapter;

~~((e))~~ (f) Monitor the development and implementation of ~~((dairy))~~ livestock nutrient management plans; and

~~((d))~~ (g) Identify ~~((dairy producers who would benefit from))~~ AFOs, CAFOs, and dairies that are eligible for technical assistance or education programs.

~~(2) ((Local conservation district employees may, at their discretion, accompany department inspectors on any scheduled inspection of dairy farms except random, unannounced inspections:))~~

~~(3) Follow-up inspections shall be conducted by the department to ensure that corrective and other actions as identified in the course of initial inspections are being carried out. The department shall also conduct such additional inspections as are necessary to ensure compliance with state and federal water quality requirements, provided that all licensed dairy farms shall be inspected once within two years of the start of this program. The department, in consultation with the advisory and oversight committee established in section 8 of this act, shall develop performance-based criteria to determine the frequency of inspections.~~

~~(4) Dairy farms)) The department shall inspect all dairies and permitted CAFOs at least once every two years.~~

~~(3) Dairies and permitted CAFOs shall be prioritized for inspection based on ((the development of)) criteria that include, but are not limited to, the following factors:~~

~~(a) Existence or implementation of a ((dairy)) livestock nutrient management plan;~~

~~(b) Proximity to impaired waters of the state; ((and))~~

~~(c) Proximity to all other waters of the state((-- The criteria developed to implement this subsection (4) shall be reviewed by the advisory and oversight committee.));~~

~~(d) Proximity to shellfish beds;~~

~~(e) Permit status;~~

~~(f) Compliance history; and~~

~~(g) Other relevant factors as may be determined by the department.~~

~~(4)(a) All permitted CAFOs must make available during inspection those records required to be kept by the permit.~~

~~(b) Dairies not covered by a permit and AFOs shall make available during inspection records including, but not limited to, animal inventories for purposes of determining if the dairy or AFO is subject to regulation as a CAFO, to assess compliance with state and federal water quality laws, and to verify qualification for technical assistance programs, education programs, or any tax exemptions available under state law.~~

~~(5) The department may conduct follow-up inspections to ensure that corrective actions identified in the course of an inspection are being carried out. The department may conduct such additional inspections as are necessary to ensure compliance with administrative orders issued by the department and compliance with permit conditions and state and federal water quality laws and rules.~~

NEW SECTION. Sec. 6. (1) All CAFOs required to apply for a permit and all dairies are required to develop a livestock nutrient management plan. These plans must be approved by the department and certified as fully implemented by the department and the livestock producer. If at any time compliance with a livestock nutrient management plan fails to prevent the discharge of pollutants or if complying with the plan would still pose a significant potential to discharge pollutants to waters of the state, the livestock producer must revise the plan as directed by the department.

(2) Plans must be developed using natural resource conservation service (NRCS) practice standards. Equivalent practices and standards may be used if the department determines they meet or exceed NRCS standards and there is a substantial likelihood that, once implemented, the alternative practices and standards would meet state and federal water quality standards. The department shall establish by rule a technical review process to make determinations on proposed equivalent practices and standards.

(3) Prior to approval and certification, a nutrient management plan must be verified by a conservation district as meeting the NRCS standards except that, at the request of the producer, verification may be by a technical review team convened by the director. The team must include a representative of a conservation district.

NEW SECTION. Sec. 7. The following requirements apply to all CAFOs required to apply for a permit.

(1) All CAFOs required to apply for a permit must meet livestock nutrient management plan deadlines for development and implementation required by this chapter, permit, or rule.

(2) At a minimum, a livestock nutrient management plan for a CAFO required to apply for a permit must include site-appropriate best management practices including those set out in 40 C.F.R. Sec. 412.4 (April 14, 2003), and procedures necessary to implement applicable effluent limitations including those set out in 40 C.F.R. Part 412 (April 14, 2003), and standards. The plan must, to the extent applicable:

(a) Ensure adequate storage of livestock nutrients, including procedures to ensure proper operation and maintenance of the storage facilities;

(b) Ensure proper management of dead animals to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

(c) Ensure that clean water is diverted, as appropriate, from the production area;

(d) Prevent direct contact of confined animals with waters of the state;

(e) Ensure that chemicals and other contaminants handled on-site are not disposed of in any livestock nutrients or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;

(f) Identify appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the state;

(g) Identify protocols for appropriate testing of livestock nutrients and soil;

(h) Establish protocols to apply livestock nutrients in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the livestock nutrients; and

(i) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in (a) through (h) of this subsection.

(3) Review and approval of a plan by the department is part of the permit application and issuance process. The department shall determine whether a plan contains the elements identified in subsection (2) of this section, meets the permit requirements, and is adequate to meet applicable state and federal water quality laws, including chapter 90.48 RCW.

(4)(a) An approved plan shall be certified by the department and the livestock producer when the plan is fully implemented and is being used as designed and intended.

(b) A certification form shall be developed by the department and shall provide for a signature by both the director and the livestock producer. The livestock producer must submit to the department a signed certification form.

(c) Upon receipt of the completed certification form, the department shall determine within one hundred twenty days whether the approved plan has been fully implemented. If the department finds the plan is not fully implemented, the department shall deny certification. The department shall notify the livestock producer in writing of the reasons for the denial of certification.

NEW SECTION. Sec. 8. The following requirements apply to all dairies not required to apply for a permit.

(1) A dairy that is not a CAFO required to apply for a permit has six months from the date of obtaining a license under chapter 15.36 RCW to submit its livestock nutrient management plan to the department and eighteen months from the date of plan approval to submit the plan to the department for certification.

(2) The plan for a dairy that is not a CAFO required to apply for a permit shall include the minimum elements as defined by the department by rule.

(3) The department shall review and determine whether a plan contains the minimum elements. The department shall approve or deny approval of the plan no later than ninety days after receiving the plan. If the department denies approval, the department shall notify

the livestock producer in writing of the denial and of modifications needed for plan compliance no later than ninety days after receiving the plan. The livestock producer must provide a revised plan that includes the needed modifications within ninety days of the date of the department's notification.

(4)(a) An approved plan shall be certified by the department and the livestock producer when the plan is fully implemented and is being used as designed and intended.

(b) A certification form shall be developed by the department and shall provide for a signature by both the director and the livestock producer. The livestock producer must submit to the department a signed certification form within eighteen months of plan approval.

(c) Upon receipt of the completed certification form, the department shall determine within one hundred twenty days whether the approved plan has been fully implemented. If the department finds the plan is not fully implemented, the department shall deny certification. The department shall notify the livestock producer in writing of the reasons for the denial of certification and set a date by which full implementation must occur.

(5) A dairy that is not a CAFO required to apply for a permit that fails to have an approved or a certified livestock nutrient management plan in place by the timelines specified in this section is in violation of this chapter. Each month beyond these deadlines that the dairy is out of compliance with the requirement for either plan approval or plan certification is considered a separate violation that may subject the dairy to penalties. The penalties are one hundred dollars per month for each violation up to a combined total of one thousand two hundred dollars and then the penalty is two hundred dollars per month for each violation up to a combined maximum of five thousand dollars.

NEW SECTION. Sec. 9. AFOs that are not dairies may voluntarily develop and implement livestock nutrient management plans. If an AFO requests that the department approve and certify the plan, then the plan must meet the minimum elements required in section 8 of this act. Plan approval and certification shall follow the same process as identified in section 8 of this act.

Sec. 10. RCW 90.64.028 and 1998 c 262 s 7 are each amended to read as follows:

(1) ~~(Conservation district)~~ (a) Department decisions pertaining to denial of approval or denial of certification of a ~~(dairy)~~ livestock nutrient management plan for a facility not required to have a permit, including a denial of the use of alternative standards and practices; modification or amendment of a plan; conditions contained in a plan; application of any ~~(dairy)~~ livestock nutrient management practices, standards, methods, and technologies to a particular AFO, CAFO, or dairy ~~(farm)~~; and the failure to adhere to plan review and approval timelines identified in ~~(RCW 90.64.026)~~ section 8 of this act are appealable under this chapter. ~~(Department actions pertaining to water quality violations are appealable under chapter 90.48 RCW.~~

~~In addition, a dairy producer who is constrained from complying with the planning requirements of this chapter because of financial hardship or local permitting delays may request a hearing before the conservation commission and may request an extension of up to one year beyond the approval and certification dates prescribed in this chapter for plan approval and certification.~~

~~(2)) (b) Within thirty days of receiving ((a local conservation district)) notification regarding any of the decisions identified in (a) of this subsection ((1) of this section), a ((dairy)) livestock producer who disagrees with any of these decisions ((may request an informal hearing before the conservation commission or)) may appeal ((directly)) to the pollution control hearings board. ((The commission shall issue a written decision no later than thirty days after the informal hearing.~~

~~(3) If the conservation commission reverses the decision of the conservation district, the conservation district may appeal this reversal to the pollution control hearings board according to the procedure in chapter 43.21B RCW within thirty days of receipt of the commission's decision.~~

~~(4)) (c) When an appeals process is initiated under this section, the length of time extending from the start of the appeals process to~~

its conclusion shall be added onto the timelines provided in this chapter for plan development, approval, and certification ~~((only if an appeal is heard by the pollution control hearings board)).~~

(2) For facilities applying for a permit, department decisions pertaining to those elements of a livestock nutrient management plan that are conditions of a permit are made as part of the permit application and issuance process and are appealable by any person to the pollution control hearings board under RCW 43.21B.110.

Sec. 11. RCW 90.64.030 and 2003 c 325 s 3 are each amended to read as follows:

~~(1) ((Under the inspection program established in RCW 90.64.023, the department may investigate a dairy farm to determine whether the operation is discharging pollutants or has a record of discharging pollutants into surface or ground waters of the state. Upon concluding an investigation, the department shall make a written report of its findings, including the results of any water quality measurements, photographs, or other pertinent information, and provide a copy of the report to the dairy producer within twenty days of the investigation.~~

~~(2)) (a) The department shall investigate a ((written)) complaint filed with the department within three working days and shall make a written report of its findings including the results of any water quality measurements, photographs, or other pertinent information. Within twenty days of receiving a ((written)) complaint, a copy of the findings shall be provided to the ((dairy)) livestock producer subject to the complaint, and, if requested, to the complainant if the person gave his or her name and address to the department at the time the complaint was filed.~~

~~((3)) (b) The department may consider past complaints against the same AFO, CAFO, or dairy ((farm)) from the same person and the results of its previous inspections, and has the discretion to decide whether to conduct an inspection if:~~

~~((a)) (i) The same or a similar complaint or complaints have been filed against the same AFO, CAFO, or dairy ((farm)) within the immediately preceding six-month period; and~~

~~((b)) (ii) The department made a determination that the activity that was the subject of the prior complaint was not a violation.~~

~~((4)) (c) If the decision of the department is not to conduct an inspection, it shall document the decision and the reasons for the decision within twenty days. The department shall provide the decision to the complainant if the name and address were provided to the department, and to the ((dairy)) livestock producer subject to the complaint, and the department shall place the decision in the department's administrative records.~~

~~((5)) (2) The report of findings of any inspection conducted as the result of ((either an oral or a written)) a complaint shall be placed in the department's administrative records. ((Only findings of violations shall be entered into the data base identified in RCW 90.64.130.~~

~~((6) A) (3) An AFO, CAFO, or dairy ((farm)) that is determined to be a significant contributor of pollution based on actual water quality tests, photographs, or other pertinent information, or that violates the terms and conditions of a permit is subject to the provisions of this chapter and to the enforcement provisions of chapters 43.05 and 90.48 RCW, including civil penalties levied under RCW 90.48.144 or this chapter.~~

~~((7)) (4) If the department determines that an unresolved water quality problem from ((a)) an AFO, CAFO, or dairy ((farm)) requires immediate corrective action, the department shall notify the livestock producer ((and the district in which the problem is located)). When corrective actions are required to address such unresolved water quality problems, the department shall provide copies of all final ((dairy farm)) inspection reports and documentation of all formal regulatory and enforcement actions taken by the department against that particular ((dairy farm to the local conservation district and to the appropriate dairy farm)) facility to the livestock producer within twenty days.~~

~~((8) For a violation of water quality laws that is a first offense for a dairy producer, the penalty may be waived to allow the producer to come into compliance with water quality laws)) (5) The penalty may be waived for the first violation of water quality laws on an AFO, CAFO, or dairy to allow the livestock producer to promptly~~

come into compliance. The department shall record all ~~((legitimate))~~ violations and subsequent enforcement actions.

~~((9))~~ (6) A discharge of pollutants, including ((a)) an agricultural storm water discharge, ((to surface)) into waters of the state by an AFO, CAFO, or dairy shall not be considered a violation of this chapter((, chapter 90.48 RCW, or chapter 173-201A WAC,)) and shall therefore not be enforceable by the department, the department of ecology, or a third party, if at the time of the discharge, a violation is not occurring under ((RCW 90.64.010(18))) section 34 of this act. In addition, a ((dairy)) livestock producer shall not be held liable for violations of this chapter((, chapter 90.48 RCW, chapter 173-201A WAC, or the federal clean water act)) due to the discharge of ((dairy)) livestock nutrients to waters of the state resulting from spreading these materials on lands other than where the nutrients were generated, when the nutrients are spread by persons other than the ((dairy)) livestock producer or the ((dairy)) producer's agent.

~~((10))~~ (7) As provided under RCW 7.48.305, agricultural activities associated with the management of ((dairy)) livestock nutrients are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on public health and safety.

~~((11))~~ (8) This section specifically acknowledges that if a holder of a general or individual national pollutant discharge elimination system permit complies with the permit and the ((dairy)) livestock nutrient management plan conditions for appropriate land application practices, the permit provides compliance with the federal clean water act and acts as a shield against citizen or agency enforcement for any additions of pollutants to waters ((of the state or)) of the United States as authorized by the permit.

~~((12) A dairy producer who fails to have an approved dairy nutrient management plan by July 1, 2002, or a certified dairy nutrient management plan by December 31, 2003, and for which no appeals have been filed with the pollution control hearings board, is in violation of this chapter. Each month beyond these deadlines that a dairy producer is out of compliance with the requirement for either plan approval or plan certification shall be considered separate violations of chapter 90.64 RCW that may be subject to penalties. Such penalties may not exceed one hundred dollars per month for each violation up to a combined total of five thousand dollars. The department has discretion in imposing penalties for failure to meet deadlines for plan approval or plan certification if the failure to comply is due to lack of state funding for implementation of the program. Failure to register as required in RCW 90.64.017 shall subject a dairy producer to a maximum penalty of one hundred dollars. Penalties shall be levied by the department.)~~

Sec. 12. RCW 90.64.040 and 1993 c 221 s 5 are each amended to read as follows:

Enforcement actions and administrative orders issued by the department ~~((of ecology))~~ may be appealed to the pollution control hearings board in accordance with the provisions of chapter 43.21B RCW.

Sec. 13. RCW 90.64.050 and 1998 c 262 s 12 are each amended to read as follows:

(1) The department has the ~~((following duties))~~ duty to implement and administer a livestock nutrient management program including the duty to:

(a) Enforce this chapter including carrying out inspections and enforcement actions, and assessing penalties;

(b) Identify existing or potential water quality problems resulting from a dairy farm((s)) or CAFO through implementation of the inspection program in ((RCW 90.64.023)) this chapter;

~~((b) Inspect a dairy farm upon the request of a dairy producer;)~~
(c) Receive, process, and verify complaints concerning discharge of pollutants from ((all dairy farms)) any AFO, CAFO, or dairy;

(d) ((Determine if a dairy-related water quality problem requires immediate corrective action under the Washington state water pollution control laws, chapter 90.48 RCW, or the Washington state water quality standards adopted under chapter 90.48 RCW. The department shall maintain the lead enforcement responsibility;

~~((c))~~ Upon delegation, administer and enforce ((national

~~pollutant discharge elimination system)) permits for ((operators of)) concentrated ((dairy)) animal feeding operations, where required by federal regulations and state laws or upon request of a ((dairy)) livestock producer;~~

~~((f) Participate on the advisory and oversight committee;~~

~~((g) Encourage communication and cooperation between local department personnel and the appropriate conservation district personnel;~~

~~((h))~~ (e) Require the ((use of dairy)) development of livestock nutrient management plans as required under this chapter ((for entities required to plan under this chapter)); and

~~((i) Provide to the commission and the advisory and oversight committee an annual report of dairy farm inspection and enforcement activities))~~ (f) Approve and certify livestock nutrient management plans that meet the minimum standards developed under this chapter.

(2) The department ~~((may not delegate its responsibilities in enforcement))~~ has the authority to:

(a) Inspect a facility upon the request of the livestock producer;

(b) Provide technical assistance to AFOs, CAFOs, and dairies in gaining compliance with this chapter and in implementing livestock nutrient management plans to protect water quality;

(c) Maintain and manage data necessary to administer the program effectively and to track compliance activity;

(d) Provide communication and outreach to representatives of agricultural and environmental organizations; and

(e) Coordinate with conservation districts or other agencies and organizations that provide education and technical or financial assistance programs for AFOs, CAFOs, and dairies.

Sec. 14. RCW 90.64.110 and 1993 c 221 s 12 are each amended to read as follows:

(1) In addition to the specific grants of rule-making authority in this chapter, the department may adopt rules as necessary to implement this chapter, including rules concerning the administration of permit programs.

(2) The department has the authority to adopt in rule any provisions in the following federal regulations: 40 C.F.R. parts 9, 122, 123, 124, and 412 (April 14, 2003). The department is authorized to adopt rules to accommodate changes to federal regulations that are subsequently adopted by the United States environmental protection agency.

Sec. 15. RCW 90.64.150 and 2003 c 325 s 5 are each amended to read as follows:

~~((The livestock nutrient management account is created in the custody of the state treasurer.))~~ All receipts from monetary penalties levied pursuant to violations of this chapter must be deposited into the livestock nutrient management grant account hereby created within the agricultural local fund. Expenditures from the account may be used only to provide grants for research or education proposals that assist livestock operations to achieve compliance with state and federal water quality laws. The director ~~((of agriculture))~~ shall accept and prioritize research proposals and education proposals. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 16. Any residual balance of funds remaining in the livestock nutrient management account on the effective date of this section shall be transferred to the livestock nutrient management grant account within the agricultural local fund.

NEW SECTION. Sec. 17. (1) Permitted CAFOs shall maintain and make available to the department the records and annual reports as described in 40 C.F.R. Sec. 122.42(e) (2), (3), and (4) (April 14, 2003). The department shall develop a standard annual reporting form and a submittal date by rule for the annual report from CAFOs.

(2) Dairies that are not a CAFO required to apply for a permit shall maintain and make available to the department all records required by their livestock nutrient management plans. These dairies must also submit a completed summary report to the department every two years beginning in 2006. The department shall develop

and send out a standard reporting form and designate a submittal date by rule for the report. If the producer fails to submit a completed summary report by the submittal date, the department shall levy a penalty of one hundred dollars.

NEW SECTION. Sec. 18. The department may coordinate with Washington State University, the conservation commission, conservation districts, the department of ecology, other federal, state, and local agencies, and private organizations and individuals in implementing an education program for improvement of nutrient management by dairies, AFOs, and CAFOs and to prevent livestock nutrients from degrading the quality of waters of the state. The department may refer livestock producers to conservation districts, Washington State University, and other entities for educational programs, technical assistance, or financial assistance.

NEW SECTION. Sec. 19. (1) Conservation districts may, at the request of a livestock producer, provide technical or financial assistance in developing or revising and implementing the producer's livestock nutrient management plan.

(2) The conservation commission and conservation districts shall, to the extent practical and to the extent that funding allows, provide technical and financial assistance to livestock producers to assist them in complying with this chapter.

NEW SECTION. Sec. 20. When the environmental protection agency delegates authority under the federal clean water act to the department and the department of ecology relinquishes its authority under RCW 90.48.260 to administer its national pollutant discharge elimination permit system authority and other duties regarding animal feeding operations and concentrated animal feeding operations, the department is hereby authorized to participate fully in the programs of the federal clean water act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act for AFOs and CAFOs. Implementation shall be accomplished so that compliance with AFO and CAFO rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted in this section include, among others, and notwithstanding any provisions of chapter 90.48 RCW or otherwise, the following:

(1) Complete authority to establish and administer a livestock nutrient management program, including a pollution discharge elimination permit program which will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington. Program elements authorized may include, but are not limited to: (a) Issuance of permits; (b) termination and modification of permits for cause; (c) requirements for public notices and opportunities for public hearings; (d) requirements for inspection, monitoring, entry, and reporting; (e) enforcement of the program through penalties, emergency powers, and criminal sanctions; (f) a continuing planning process; and (g) user charges.

(2) The power to establish and administer a state program in a manner which will ensure 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.

(3) The power to develop and implement appropriate programs pertaining to continuing planning processes.

NEW SECTION. Sec. 21. Until the department receives federal delegation for the NPDES CAFO program, the department of ecology shall remain responsible for NPDES permit administration as described under a memorandum of understanding between the department and the department of ecology. Sections 22 through 26 of this act are not effective until federal delegation occurs.

NEW SECTION. Sec. 22. (1) Any person who owns or operates a dairy or CAFO that is required to apply for a permit under RCW 90.64.020 (as recodified by this act) or under the federal CAFO rule shall obtain a permit from the department. Any AFO that is determined by the department to be discharging into the waters of the state is required to obtain a state waste discharge permit from the

department.

(2) The permit issued by the department shall meet the requirements of either the NPDES or the state waste discharge permit system, or both.

(3) A livestock operation meeting the definition of large CAFO may seek a determination from the department that the large CAFO has no potential to discharge to the waters of the state. Within sixty days of such a request, the director will make a determination using the process and criteria of 40 C.F.R. Sec. 122.23(f) (April 14, 2003). A livestock operation that receives a determination that it has no potential to discharge is not required to apply for permit coverage. Such a livestock operation is not relieved from liability under this chapter for actual discharges.

NEW SECTION. Sec. 23. (1) Applications for permits or modifications of a permit must be made on forms prescribed by the department, which shall be consistent with the federal CAFO permit application form. A copy of the nutrient management plan must be submitted with the application. An application for a permit shall be made:

(a) At least one hundred eighty days prior to commencement of operation of any new source CAFO required to apply for a permit;

(b) At least one hundred eighty days prior to the permit expiration date;

(c) Within ninety days of designation as a newly designated CAFO; or

(d) Within ninety days of the change in circumstance that causes a facility not covered by a permit to become defined as a CAFO required to apply for a permit.

(2) The department shall establish by rule public notice and public hearing requirements pertaining to department decisions on applications and permits in conformance with the requirements of 40 C.F.R. Secs. 124.10, 124.11, and 124.12 (April 14, 2003) and any other applicable federal regulation. At a minimum, the department's rules shall include providing notice of permit application. These rules shall also define the methods of public notice including, but not limited to, electronic means.

(3) When an application has been filed with the department that complies with this chapter and its rules, the department shall determine whether the management of livestock nutrients as proposed will pollute waters of the state in violation of the public policy of the state.

NEW SECTION. Sec. 24. The department shall issue a permit under section 22 of this act unless it finds that the disposal of livestock nutrients as proposed in the application will pollute or present a substantial potential to pollute the waters of the state in violation of state or federal law. The department shall have authority to specify conditions necessary to avoid such pollution in each permit under which livestock nutrients may be disposed of by the permittee. Permits, whether individual or general, shall not be valid for more than five years from the date of issuance.

NEW SECTION. Sec. 25. A permit under section 22 of this act shall be subject to termination upon thirty days' notice in writing if the department finds:

(1) That it was procured by misrepresentation of any material fact or by lack of full disclosure in the application;

(2) That there has been a violation of the conditions thereof;

(3) That a material change in quantity or type of livestock nutrient disposal exists.

NEW SECTION. Sec. 26. In the event that a material change in the condition of the waters occurs, the department may, by appropriate order, modify permit conditions or specify additional conditions in permits previously issued. The department may modify or revoke and reissue permits in accordance with 40 C.F.R. Sec. 122.62 and 63 (April 14, 2003). Reissued permits or permits with major modifications shall be issued in accordance with section 23 of this act and subject to appeal in accordance with RCW 43.21B.110. Modification of the terms and conditions of the nutrient management plan included in a permit constitutes a modification of the permit.

NEW SECTION. Sec. 27. It is unlawful for any person regulated by this chapter to throw, drain, run, or otherwise discharge into any of the waters of this state, or to cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise discharged into such waters any organic or inorganic matter, including livestock nutrients, that shall cause or tend to cause pollution of such waters according to the determination of the department, as provided for in this chapter.

NEW SECTION. Sec. 28. If any discharge to waters of the state occurs, a permitted CAFO shall notify the department as specified in the permit. A dairy or CAFO that is not a permitted CAFO shall notify the department within twenty-four hours and submit a written report within five days describing at a minimum: The discharge, receiving water, cause, dates, estimated quantities, corrective steps taken to repair impacts, and how it will prevent any future discharge.

NEW SECTION. Sec. 29. (1) The director has the authority to enter any AFO, CAFO, or dairy at any reasonable time and inspect property or facilities and records required under this chapter. Upon arrival at an AFO, CAFO, or dairy, the department shall present identification and give verbal notification of the purpose of the inspection, which may include sampling and testing, to the livestock producer or his or her agent.

(2) If the director is denied access to property, facility, or records, the director may apply to a court of competent jurisdiction for a search warrant authorizing access to property, facilities, or records for purposes of inspections, sampling, or testing as authorized in this chapter. The court may upon the application issue a search warrant for the purposes requested.

NEW SECTION. Sec. 30. The department, with the assistance of the attorney general, is authorized to bring any appropriate action at law or in equity, including action for injunctive relief, in the name of the people of the state of Washington as may be necessary to carry out this chapter.

NEW SECTION. Sec. 31. (1) Whenever, in the opinion of the department, any person violates or creates a substantial potential to violate this chapter, or fails to control the polluting content of waste discharged or to be discharged into any waters of the state, the department shall notify the person of its determination by registered or certified mail. Such determination shall not constitute an order or directive under chapter 43.21B or 34.05 RCW. Within thirty days from the receipt of notice of the determination, the person must file with the department a full report stating what steps have been and are being taken to control the waste or pollution or to otherwise comply with the determination of the department. The department then shall issue such order or directive as it deems appropriate under the circumstances, and shall notify the person by registered or certified mail.

(2) Whenever the department deems immediate action is necessary to accomplish the purposes of this chapter, it may issue such order or directive, as appropriate under the circumstances, without first issuing a notice or determination pursuant to subsection (1) of this section. An order or directive issued pursuant to this subsection shall be served by registered or certified mail or personally upon any person to whom it is directed.

NEW SECTION. Sec. 32. Any person found guilty of willfully violating this chapter, or any final written orders or directive of the department or a court in pursuance thereof, is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of this chapter occurs may be deemed a separate and additional violation.

NEW SECTION. Sec. 33. (1) Any person who:

- (a)(i) Violates this chapter;
- (ii) Fails to perform any duty imposed by this chapter;

(iii) Violates an order or other determination of the department or the director made under this chapter;

(iv) Violates the conditions of a permit issued under this chapter; or

(v) Otherwise causes a reduction in the quality of the state's waters below the standards set under chapter 90.48 RCW or, if no standards have been set, causes significant degradation of water quality, thereby damaging the state's waters; and

(b) Causes the death of, or injury to, fish, animals, vegetation, or other resources of the state; shall be liable to pay the state and affected counties and cities damages in an amount determined under RCW 90.48.367.

(2) An action is not authorized under this section against any person operating in compliance with the conditions of a permit issued under this chapter.

NEW SECTION. Sec. 34. (1) Except as provided in chapter 43.05 RCW, every person who:

(a) Violates the terms or conditions of a permit issued under this chapter or chapter 90.48 RCW for an AFO or a CAFO;

(b) Operates a CAFO without a permit as required by this chapter or chapter 90.48 RCW; or

(c) Discharges livestock nutrients in violation of this chapter, or rules or orders adopted or issued under this chapter or chapter 90.48 RCW,

shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to ten thousand dollars a day for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under this section and subject to the penalty provided for in this section. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the violation's impact on public health or the environment in addition to other relevant factors. The department is authorized to set forth the procedures and the criteria for setting the penalty in rule.

(2) A discharge of pollutants into the waters of the state is a violation of this chapter, except those discharges that occur when a livestock producer has a current national pollutant discharge elimination system permit with a wastewater system designed, constructed, operated, and maintained for the current herd size and that contains all process-generated wastewater plus average annual precipitation minus evaporation plus contaminated storm water runoff from a rainfall event as specified for the type of facility in 40 C.F.R. Part 412 (April 14, 2003) for that specific location, the discharge is the result of a rainfall event as specified for the type of facility in 40 C.F.R. Part 412 (April 14, 2003), and the livestock producer has complied with all permit conditions, including livestock nutrient management plan conditions for appropriate land application practices.

(3) A livestock producer may assert upset as an affirmative defense to allegations of discharge in violation of a permit. "Upset" means an exceptional incident in which there is an unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the producer. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

NEW SECTION. Sec. 35. (1) Notwithstanding any other provisions of this chapter, whenever it appears to the director that a person regulated by this chapter is causing water quality conditions to exist which require immediate action to protect the public health or welfare, the director may issue a written temporary order to cease and desist to the person responsible without prior notice or hearing, directing the person to either: (a) Immediately discontinue or modify the discharge into the waters of the state; or (b) appear before the department at the time and place specified in the order to provide the

department information pertaining to the violations and conditions alleged in the order. The temporary order to cease and desist is effective upon service on the responsible person and will remain in effect until ten days after the informational meeting. The responsible person shall be given not less than twenty-four hours' notice of the informational meeting.

(2) Following the informational meeting or if the responsible person fails to attend the informational meeting, if the department determines that water quality conditions exist which require immediate action to protect the public health or welfare, the department may issue a written permanent order to cease and desist requiring the person to immediately discontinue or modify the discharge into waters. The permanent order to cease and desist is effective upon service. If this order is not immediately complied with, the attorney general, upon request of the department, may seek enforcement of the order in the superior court of the county in which the violation took place. Permanent orders to cease and desist issued by the department are appealable under chapter 43.21B RCW.

NEW SECTION. Sec. 36. (1) The department shall establish by rule annual fees for administering permits issued under this chapter. Fees shall be used for costs incurred by the department in processing permit applications and modifications, monitoring and evaluating compliance with permits, conducting inspections, securing laboratory analysis of samples taken during inspections, reviewing plans and documents directly related to operations of permittees, overseeing performance of delegated pretreatment programs, and supporting the overhead expenses that are directly related to these activities.

(2) The initial fee schedule adopted after delegation of national pollutant discharge elimination system permit authority from the environmental protection agency shall be the same as the fee schedule established by the department of ecology except that fees may rise in accordance with the fiscal growth factor as provided in chapter 43.135 RCW. Until the initial fee schedule is adopted, the fees established by the department of ecology shall be in effect.

(3) All fees collected under this section shall be deposited in the livestock nutrient management permit account within the agricultural local fund and used only for purposes of administering permits under this chapter.

NEW SECTION. Sec. 37. (1) Prior to issuing an order related to discharges from agricultural activity on agricultural land, the department shall consider whether an enforcement action would contribute to the conversion of agricultural land to nonagricultural uses. Any enforcement action shall attempt to minimize the possibility of such conversion.

(2) As used in this section:

(a) "Agricultural activity" means the growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, grain, mint, hay, and dairy products.

(b) "Agricultural land" means at least five acres of land devoted primarily to the commercial production of livestock or agricultural commodities.

NEW SECTION. Sec. 38. (1) The department of ecology shall develop and maintain a standard protocol for water quality monitoring of the waters of the state within the vicinity of dairies and CAFOs. The protocol shall include sampling methods and procedures and identify the water quality constituents to be monitored.

(2) The department of ecology shall submit the initial protocol developed according to this section to the appropriate committees of the legislature by December 1, 2005.

Sec. 39. RCW 43.21B.001 and 2004 c 204 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) "Business days" means Monday through Friday exclusive of any state or federal holiday.

(2) "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(3) "Department" means the department of ecology, except for references pertaining to chapter 16.-- RCW (created by section 48 of this act), in which case "department" means the department of agriculture.

(4) "Director" means the director of ecology, except for references pertaining to chapter 16.-- RCW (created by section 48 of this act), in which case "director" means the director of the department of agriculture or a duly authorized representative.

Sec. 40. RCW 43.21B.110 and 2003 c 393 s 19 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the department of agriculture, the director, local conservation districts, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to section 17 of this act, section 34 of this act, RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, ((and)) 90.56.330, and section 8 of this act.

(b) Orders issued pursuant to section 31 of this act, section 35 of this act, RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of ~~((local conservation districts))~~ the department of agriculture related to the denial of approval or denial of certification of a ~~((dairy))~~ livestock nutrient management plan; conditions contained in a plan; application of any ~~((dairy))~~ livestock nutrient management practices, standards, methods, and technologies to a particular ~~((dairy farm))~~ facility; and failure to adhere to the plan review and approval timelines in ~~((RCW 90.64.026))~~ section 8 of this act.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings conducted by the department, or the department's designee, under RCW 90.03.160 through 90.03.210 or 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(e) Appeals of decisions by the department as provided in chapter 43.21L RCW.

(3) Review of rules and regulations adopted by the hearings

board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

Sec. 41. RCW 43.21B.300 and 2004 c 204 s 4 are each amended to read as follows:

(1) Any civil penalty provided in section 8 of this act, section 17 of this act, section 34 of this act, RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330 shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department, the department of agriculture, or the local air authority, describing the violation with reasonable particularity. Within thirty days after the notice is received, the person incurring the penalty may apply in writing to the department, the department of agriculture, or the authority, as appropriate, for the remission or mitigation of the penalty. Upon receipt of the application, the department, the department of agriculture, or authority may remit or mitigate the penalty upon whatever terms the department, the department of agriculture, or the authority in its discretion deems proper. The department, the department of agriculture, or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department, the department of agriculture, or authority thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

- (a) Thirty days after receipt of the notice imposing the penalty;
- (b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or
- (c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department or the department of agriculture, as appropriate, within thirty days after it becomes due and payable, the attorney general, upon request of the department or the department of agriculture, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account, created by RCW 70.105.180, ~~(and)~~ RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390 and chapter 16.-- RCW (created by section 48 of this act) which shall be credited to the livestock nutrient management grant account created by RCW 90.64.150 (as recodified by this act).

Sec. 42. RCW 43.21B.310 and 2004 c 204 s 5 are each amended to read as follows:

(1) Except as provided in RCW 90.03.210(2), any order issued by the department, the department of agriculture, or local air authority pursuant to section 31 of this act, section 35 of this act, RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal

is filed with the board and served on the department, the department of agriculture, or authority within thirty days after the date of receipt of the order. Except as provided under chapter 70.105D RCW and RCW 90.03.210(2), this is the exclusive means of appeal of such an order.

(2) The department, the department of agriculture, or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

- (a) The appellant's name and address;
- (b) The date and docket number of the order, permit, or license appealed;
- (c) A description of the substance of the order, permit, or license that is the subject of the appeal;
- (d) A clear, separate, and concise statement of every error alleged to have been committed;
- (e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and
- (f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department or the department of agriculture, the attorney general, on request of the department or the department of agriculture, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the department or the department of agriculture within thirty days of the date of receipt.

Sec. 43. RCW 90.64.813 and 2003 c 325 s 2 are each amended to read as follows:

(1) A livestock nutrient management program development and oversight committee is created comprised of the following members, appointed as follows:

- (a) The director of the department of agriculture, or the director's designee, who shall serve as committee chair;
- (b) The director of the department of ecology, or the director's designee;

(c) A representative of the United States environmental protection agency, appointed by the regional director of the agency unless the agency chooses not to be represented on the committee;

(d) One member from each of the two major caucuses of the house of representatives, appointed by the speaker of the house of representatives, and one member from each of the two major caucuses of the senate, appointed by the president of the senate;

~~(e) A representative of commercial shellfish growers, nominated by an organization representing these growers, appointed by the ((governor)) director;~~

~~((e))~~ ~~(f)~~ A representative of an environmental interest organization with familiarity and expertise in water quality issues as nominated by a statewide environmental organization, appointed by the ((governor)) director;

~~((f))~~ ~~(g)~~ A representative of tribal governments as nominated by an organization representing tribal governments~~((appointed by the governor));~~

~~((g))~~ ~~(h)~~ A representative of Washington State University appointed by the dean of the college of agriculture and home economics;

~~((h))~~ ~~(i)~~ A representative of the Washington association of conservation districts, appointed by the association's board of officers;

~~((i))~~ ~~(j)~~ Three representatives of dairy producers nominated by a statewide organization representing dairy producers in the state, appointed by the ((governor)) director;

~~((j))~~ (k) Two representatives of beef cattle producers nominated by a statewide organization representing beef cattle producers in the state, appointed by the ~~((governor))~~ director;

~~((k))~~ (l) One representative of poultry producers nominated by a statewide organization representing poultry producers in the state, appointed by the ~~((governor))~~ director;

~~((l))~~ (m) One representative of the commercial cattle feedlots nominated by a statewide organization representing commercial cattle feedlots in the state, appointed by the ~~((governor))~~ director; and

~~((m))~~ (n) A representative of any other segment of the livestock industry determined by the director of agriculture to be subject to federal rules regulating animal feeding or concentrated animal feeding operations.

(2) The state department of agriculture shall provide staff for the committee. The department of agriculture may request staff assistance be assigned by the United States environmental protection agency to assist the director in staffing the committee.

(3) The committee shall establish a work plan that includes a list of tasks and a projected completion date for each task.

(4) The committee may establish a subcommittee for each of the major industry segments that is covered by the recently adopted federal regulations that pertain to animal feeding operations and concentrated animal feeding operations. The subcommittee shall be composed of selected members of the full committee and additional representatives from that major segment of the livestock industry as determined by the director. The committee shall assign tasks to the subcommittees and shall establish dates for each subcommittee to report back to the full committee.

(5) The committee shall examine the recently adopted federal regulations that provide for the regulation of animal feeding operations and concentrated animal feeding operations and develop a program to be administered by the department of agriculture that meets the requirements and time frames contained in the federal rules. Elements that the committee shall evaluate include:

(a) A process for adopting standards and for developing plans for each operation that meet these standards;

(b) A process for revising current national pollution discharge elimination system permits currently held by livestock operations and to transition these permits into the new system; and

(c) In consultation with the director, a determination of what other work is needed and what other institutional relationships are needed or desirable. The committee shall consult with representatives of the statewide association of conservation districts regarding any functions or activities that are proposed to be provided through local conservation districts.

(6) The committee shall review and comment on proposals for grants from the livestock nutrient management account created in RCW 90.64.150.

(7) The committee shall develop draft proposed legislation that includes:

(a) Statutory changes, including a timeline to achieve the phased-in levels of regulation under federal law, to comply with the minimum requirements under federal law and the minimum requirements under chapter 90.48 RCW. These changes must meet the requirements necessary to enable the department of agriculture and the department of ecology to pursue the United States environmental protection agency's approval of the transfer of the permitting program as it relates to the concentrated animal feeding operations from the department of ecology to the department of agriculture;

(b) Statutory changes necessitated by the transfer of functions under chapter 90.64 RCW from the department of ecology to the department of agriculture;

(c) Continued inspection of dairy operations at least once every two years;

(d) An outreach and education program to inform the various animal feeding operations and concentrated animal feeding operations of the program's elements; and

(e) Annual reporting to the legislature on the progress of the state strategy for implementing the animal feeding operation and concentrated animal feeding operation.

(8) The committee shall provide a report by December 1, 2003, to appropriate committees of the legislature that includes the results

of the committee's evaluation under subsection (5) of this section and draft legislation to initiate the program.

(9) The committee shall evaluate simplified nutrient management planning tools and systematic practices that can be offered to those livestock operations not required to have permits or farm plans. The goal shall be to introduce these practical models through technical assistance, education, and outreach so that all livestock owners will have clear guidance on how to meet basic responsibilities to protect water quality. The committee shall report its recommendations on tools and service delivery options to appropriate committees of the legislature during the September 2005 assembly.

(10) With respect to the federal requirement that livestock nutrient management plans contain a component ensuring proper management of dead animals, the committee shall review issues concerning routine animal carcass disposal in Washington, including composting, rendering, burying, landfills, and incineration. The committee may appoint a subcommittee including appropriate technical staff from state agencies to undertake this task and make recommendations back to the full committee. At the legislative assembly in September 2005, the department of agriculture, the department of ecology, the state board of health, and committee representatives shall present reports as follows to the appropriate legislative committees:

(a) The department of ecology shall report on the status of off-site animal composting options that meet the livestock industry's need for disposal alternatives while assuring consumer protection and equity with other composters;

(b) The department of agriculture shall report on the status of a comprehensive, clearly written guidance document for the livestock industry on alternatives currently available for routine disposal of animal carcasses. The guidance document shall include, at a minimum, the disposal alternatives of rendering, burying, landfills, and composting; and

(c) The state board of health shall report on the status of rule making that clarifies burial depth, location of burial sites in relation to drinking water wells, and incineration.

(11) The committee shall evaluate the use of ranges as a means for state and local agencies to respond to public records requests made under chapter 42.17 RCW for information obtained from dairies and AFOs not required to apply for a permit. The ranges must provide meaningful information while ensuring confidentiality of business information regarding the following characteristics of livestock operations: (a) Number of animals; (b) volume of livestock nutrients generated; (c) number of acres covered by the plan or used for land application of livestock nutrients; (d) livestock nutrients transferred to other persons; and (e) crop yields. The committee shall make recommendations and provide draft legislation regarding the use of ranges to the appropriate committees of the legislature by December 1, 2005.

(12) This section expires ~~((June 30, 2006))~~ when the federal environmental protection agency delegates authority for the NPDES CAFO program to the department. The department shall provide notice to the legislature of the date of any such delegation of authority.

NEW SECTION. Sec. 44. (1) By July 1, 2005, the department and the department of agriculture, in consultation with the department of health, shall make available to livestock producers clearly written guidelines for the composting of bovine and equine carcasses for routine animal disposal.

(2) Composters of bovine and equine carcasses are exempt from the metals testing and permit requirements under the solid waste handling rules for compost that is distributed off-site if the following conditions are met:

(a) The carcasses to be composted are not known or suspected to be affected with a prion-protein disease such as bovine spongiform encephalopathy, a spore-forming disease such as anthrax or other diseases designated by the state veterinarian;

(b) The composter follows the written guidelines provided for in subsection (1) of this section;

(c) The composter does not accept for composting animal mortalities from other sources not directly affiliated with the

composter's operation;

(d) The composter provides information to the end-user that includes the source of the material; the quality of the compost as to its nutrient content, pathogens, and stability; and the restrictions on use of the compost as stated in (f) of this subsection;

(e) The composter reports annually to the department the number of bovines and equines and the amounts of other material composted, including the composter's best estimate of the tonnage or yardage involved; and

(f) The end-user applies the compost only to agricultural lands that are not used for the production of root crops except as prescribed in the guidelines and ensures no compost comes into contact with the crops harvested from the lands where the compost is applied.

(3) If a compost production facility does not operate in compliance with the terms and conditions established for an exemption in this section, the facility shall be subject to the permitting requirements for solid waste handling under this chapter.

Sec. 45. RCW 70.95.315 and 1998 c 156 s 7 are each amended to read as follows:

The department may assess a civil penalty in an amount not to exceed one thousand dollars per day per violation to any person exempt from solid waste permitting in accordance with RCW 70.95.300 ~~((or))~~, 70.95.305, or section 44 of this act who fails to comply with the terms and conditions of the exemption. Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

NEW SECTION. Sec. 46. The following acts or parts of acts are each repealed:

RCW 90.64.015 (Environmental excellence program agreements--Effect on chapter) and 1997 c 381 s 29;

RCW 90.64.017 (Registration of dairy producers--Information required--Information to producers regarding chapter) and 1998 c 262 s 3;

RCW 90.64.026 (Dairy nutrient management plans--Elements--Approval--Timelines--Certification) and 1998 c 262 s 6;

RCW 90.64.070 (Duties of conservation district) and 1998 c 262 s 13 & 1993 c 221 s 8;

RCW 90.64.080 (Duties of conservation commission) and 1998 c 262 s 14 & 1993 c 221 s 9;

RCW 90.64.130 (Data base) and 1998 c 262 s 9;

RCW 90.64.140 (Technical assistance teams--Standards and specifications for dairy nutrient management plans) and 1998 c 262 s 10;

RCW 90.64.160 (Grants for dairy producers--Statement of environmental benefits--Development of outcome-focused performance measures) and 2001 c 227 s 4; and

RCW 90.64.800 (Reports to the legislature) and 1998 c 262 s 17.

NEW SECTION. Sec. 47. RCW 90.64.900 and 90.64.901 are decodified.

NEW SECTION. Sec. 48. The following sections are codified or recodified in the following order as a new chapter in Title 16 RCW:

(1) Intent and overview/authority

RCW 90.64.005

RCW 90.64.010

Section 1 of this act

RCW 90.64.050

RCW 90.64.110

(2) Permits

RCW 90.64.120

Section 20 of this act

Section 21 of this act

Section 22 of this act

RCW 90.64.020

Section 23 of this act

Section 24 of this act

Section 26 of this act

Section 25 of this act

Section 36 of this act

(3) Nutrient management plans

Section 6 of this act

Section 7 of this act

Section 8 of this act

Section 9 of this act

RCW 90.64.028

Section 17 of this act

(4) Field inspection and compliance

Section 27 of this act

Section 28 of this act

RCW 90.64.023

Section 29 of this act

RCW 90.64.030

Section 31 of this act

Section 35 of this act

Section 34 of this act

Section 32 of this act

RCW 90.64.040

Section 30 of this act

Section 33 of this act

Section 37 of this act

RCW 90.64.100

(5) Miscellaneous

Section 18 of this act

Section 19 of this act

RCW 90.64.813

RCW 90.64.150

Section 38 of this act

Section 50 of this act

NEW SECTION. Sec. 49. Section 44 of this act is added to chapter 70.95 RCW to be codified after RCW 70.95.305.

NEW SECTION. Sec. 50. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "nutrients;" strike the remainder of the title and insert "amending RCW 90.64.005, 90.64.010, 90.64.020, 90.64.023, 90.64.028, 90.64.030, 90.64.040, 90.64.050, 90.64.110, 90.64.150, 43.21B.001, 43.21B.110, 43.21B.300, 43.21B.310, 90.64.813, and 70.95.315; adding a new section to chapter 70.95 RCW; adding a new chapter to Title 16 RCW; creating a new section; recodifying RCW 90.64.005, 90.64.010, 90.64.050, 90.64.110, 90.64.120, 90.64.020, 90.64.028, 90.64.023, 90.64.030, 90.64.040, 90.64.100, 90.64.813, and 90.64.150; decodifying RCW 90.64.900 and 90.64.901; repealing RCW 90.64.015, 90.64.017, 90.64.026, 90.64.070, 90.64.080, 90.64.130, 90.64.140, 90.64.160, and 90.64.800; prescribing penalties; and providing a contingent expiration date."

Representatives Pettigrew and Holmquist spoke in favor of the amendment.

The amendment was adopted.

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

Representatives Pettigrew, Holmquist, Linville and Kretz spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5602, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5602, as amended by the House, and the bill passed the House by the following vote: Yeas - 85, Nays - 11, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Bailey, Blake, Campbell, Chase, Clibborn, Cody, Conway, Cox, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 85.

Voting nay: Representatives Armstrong, Buck, Buri, Chandler, Clements, Crouse, Dunn, Hinkle, Pearson, Schindler and Skinner - 11.

Excused: Representatives Condotta and Tom - 2.

SUBSTITUTE SENATE BILL NO. 5602, as amended by the House, having received the necessary constitutional majority, was declared passed.

SENATE BILL NO. 5196, By Senators Fairley, Benton, Keiser, Benson, Franklin and Berkey; by request of Insurance Commissioner

Regulating insurable interests and employer-owned life insurance.

The bill was read the second time.

Representative Schual-Berke moved the adoption of the following amendment (555):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that there is a long-standing principle that corporations have an insurable interest in the lives of key personnel. Nationally, some corporations have begun to insure the lives of personnel that have not met the insurable interest standard of Washington. Entry-level workers have been insured by their corporate employer for the benefit of the corporate employer. The legislature intends to clarify this subject and preclude corporations from insuring the lives of employees when the employees are not key personnel and the corporations have no insurable interest in the lives of those employees.

Sec. 2. RCW 48.18.010 and 1947 c 79 s .18.01 are each amended to read as follows:

~~((The applicable provisions of this chapter shall apply to insurances other than ocean marine and foreign trade insurances. This chapter shall not apply to life or disability insurance policies not issued for delivery in this state nor delivered in this state.)) This chapter applies to insurances other than ocean marine and foreign trade insurances.~~

Sec. 3. RCW 48.18.030 and 1992 c 51 s 1 are each amended to read as follows:

(1) Any individual of competent legal capacity may ~~((procure or effect an insurance contract upon))~~ insure his or her own life or body for the benefit of any person. ~~((But no))~~ A person ~~((shall procure or~~

~~cause to be procured any insurance contract upon))~~ may not insure the life or body of another individual unless the benefits under ~~((such))~~ the contract are payable to the individual insured or ~~((his))~~ the individual's personal representative(s), or to a person having, at the time when ~~((such))~~ the contract was made, an insurable interest in the individual insured.

(2) If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits ~~((thereunder))~~ accruing upon the death, ~~((disablement))~~ disability, or injury of the individual insured, the individual insured or ~~((his))~~ the individual's executor or administrator ~~((as the case may be.))~~ may maintain an action to recover ~~((such))~~ any benefits from the person ~~((so))~~ receiving them.

(3)(a) "Insurable interest" as used in this section and in RCW 48.18.060 includes only the following interests ~~((as follows))~~:

~~((a))~~ (i) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection; and

~~((b))~~ (ii) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest ~~((which))~~ that would arise only by, or would be enhanced in value by, the death, ~~((disablement))~~ disability, or injury of the individual insured.

~~((c))~~ (b) An individual ~~((heretofore or hereafter))~~ who is party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in ~~((such))~~ those shares, has an insurable interest in the life of each individual party to ~~((such))~~ the contract and for the purposes of ~~((such))~~ that contract only, in addition to any insurable interest ~~((which))~~ that may otherwise exist as to the life of such individual.

~~((d))~~ (c) A guardian, trustee, or other fiduciary has an insurable interest in the life of any person for whose benefit the fiduciary holds property, and in the life of any other individual in whose life ~~((such))~~ the person has an insurable interest.

~~((e))~~ (d) Subject to rules adopted under subsection (4) of this section, upon joint application with a nonprofit organization for, or transfer to a nonprofit organization of, an insurance policy on the life of a person naming the organization as owner and beneficiary, a nonprofit organization's interest in the life of a person if:

(i) The nonprofit organization was established exclusively for religious, charitable, scientific, literary, or educational purposes, or to promote amateur athletic competition, to conduct testing for public safety, or to prevent cruelty to children or animals; and

(ii) The nonprofit organization:

(A) Has existed for a minimum of five years; or

(B) Has been issued a certificate of exemption to conduct a charitable gift annuity business under RCW 48.38.010, or is authorized to conduct a charitable gift annuity business under RCW 28B.10.485; or

(C) Has been organized, and at all times has been operated, exclusively for benefit of, to perform the functions of, or to carry out the purposes of one or more nonprofit organizations described in ~~((e))~~ (d)(ii)(A) or (B) of this subsection and is operated, supervised, or controlled by or in connection with one or more ~~((such))~~ of those nonprofit organizations; and

(iii) For a joint application, the person is not an employee, officer, or director of the organization who receives significant compensation from the organization and who became affiliated with the organization in that capacity less than one year before the joint application.

(4) The commissioner may adopt rules governing joint applications for, and transfers of, life insurance under subsection ~~((e))~~ (d) of this section. The rules may include:

(a) Standards for full and fair disclosure that set forth the manner, content, and required disclosure for the sale of life insurance issued under subsection ~~((e))~~ (d) of this section; and

(b) For joint applications, a grace period of thirty days during which the insured person may direct the nonprofit organization to return the policy and the insurer to refund any premium paid to the party that, directly or indirectly, paid the premium; and

(c) Standards for granting an exemption from the five-year existence requirement of subsection ~~((e))~~ (d)(ii)(A) of this

section to a private foundation that files with the insurance commissioner documents, stipulations, and information as the insurance commissioner may require to carry out the purpose of subsection (3)((~~ee~~)) (d) of this section.

(5) Nothing in this section permits the personal representative of the insured's estate to recover the proceeds of a policy on the life of a deceased insured person that was applied for jointly by, or transferred to, an organization covered by subsection (3)((~~ee~~)) (d) of this section, where the organization was named owner and beneficiary of the policy.

This subsection applies to all life insurance policies applied for by, or transferred to, an organization covered by subsection (3)((~~ee~~)) (d) of this section, regardless of the time of application or transfer and regardless of whether the organization would have been covered at the time of application or transfer.

NEW SECTION. Sec. 4. A new section is added to chapter 48.18 RCW to read as follows:

(1) "Employer-owned life insurance policy" as used in this section and section 6 of this act means an insurance policy purchased by an employer on the life of an employee, for the benefit of a person other than the employee or the employee's personal representative.

(2) An employer-owned life insurance policy may not be made or take effect unless at the time the contract is made the individual insured consents to the contract in writing.

(3) An employer may not retaliate in any manner against an employee for providing written notice that he or she does not want to be insured under an employer-owned life insurance policy.

(4) No later than thirty days after the date on which an employer purchases an employer-owned life insurance policy on the life of an employee, the employer must provide to the employee a written notice that contains the following information:

- (a) A statement that the employer carries an employer-owned life insurance policy on the life of the employee;
- (b) The identity of the insurance carrier of the policy;
- (c) The maximum face amount of the policy at issue; and
- (d) The identity of the beneficiary of the policy.

Sec. 5. RCW 48.18.060 and 1947 c 79 s .18.06 are each amended to read as follows:

~~((No))~~ A life or disability insurance contract upon an individual, except a contract of group life insurance or of group or blanket disability insurance as defined in this code, shall ~~may not be made or (effectuated) take effect unless at the time ((of the making of) the contract is made the individual insured ((being of competent legal capacity to contract, in writing applies therefor or consents thereto;)) applies for or consents to the contract in writing, except in the following cases:~~

(1) A spouse may ~~((effectuate such insurance upon))~~ insure the life of the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may ~~((effectuate insurance upon))~~ insure the life of the minor.

(3) A contract of group or blanket disability insurance may be effectuated upon an individual.

(4) A contract of group life insurance may be effectuated upon an individual, except as otherwise provided in section 4 of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 48.18 RCW to read as follows:

With respect to employer-owned life insurance policies, this act shall apply only to policies issued and delivered after the effective date of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 48.18 RCW to read as follows:

The commissioner shall adopt rules to implement RCW 48.18.010, 48.18.030, and 48.18.060 and sections 4 and 6 of this act.

NEW SECTION. Sec. 8. The insurance commissioner shall report to the legislature on or before December 31, 2006, on steps taken to implement this act and whether the protections afforded in

this act are adequate to protect consumers."

Correct the title.

Representative Schual-Berke spoke in favor of adoption of the amendment.

The amendment was adopted.

COLLOQUY

Representative Serben: "Must the intent section in Section 1 be read in a manner that is not inconsistent with the clear language of the bill as contained in Sections 2-6 of this act?"

Representative Schual-Berke: "Yes. The intent section must be read to be consistent with the operational sections of the bill. Where the face language of Sections 2-6 is clear and unambiguous, the intent section must be read in a manner that is not inconsistent with those provisions."

Representatives Kirby, Serben and Schual-Berke spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5196, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5196, as amended by the House, and the bill passed the House by the following vote: Yeas - 95, Nays - 1, Absent - 0, Excused - 2.

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

Voting nay: Representative Dunn - 1.

Excused: Representatives Condotta and Tom - 2.

SENATE BILL NO. 5196, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGES FROM THE SENATE

April 14, 2005

Mr. Speaker:

The Senate has passed:

HOUSE BILL NO. 1261,
SUBSTITUTE HOUSE BILL NO. 1310,
SUBSTITUTE HOUSE BILL NO. 1560,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 14, 2005

Mr. Speaker:

The Senate has passed:

SUBSTITUTE HOUSE BILL NO. 1100,
HOUSE BILL NO. 1180,
HOUSE BILL NO. 1183,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

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

INTRODUCTION & FIRST READING

HB 2321 by Representatives Hasegawa, Miloscia, Pettigrew, Cody, McDermott and Chase

AN ACT Relating to the taxation of janitorial services.

Referred to Committee on Finance.

HB 2322 by Representative Ormsby

AN ACT Relating to limiting the phosphorus content in dishwashing detergent; and amending RCW 70.95L.005 and 70.95L.020.

Referred to Committee on Natural Resources, Ecology & Parks.

HB 2323 by Representatives B. Sullivan, DeBolt, Simpson, Springer, Holmquist, McCune, O'Brien, Sells, Pettigrew, Ahern, Jarrett, Miloscia, Ormsby, Dunn, Priest, Roach, Dunshee, Woods, Ericks and Hunter

AN ACT Relating to increasing affordable rental housing through accessory dwelling units; amending RCW 36.70A.400, 35.63.210, 35A.63.230, and 36.70.677; and creating a new section.

Referred to Committee on Local Government.

HB 2324 by Representatives Holmquist, Simpson, B. Sullivan, Tom, O'Brien, Springer, McCune, Sells, Pettigrew, Ahern, DeBolt, Jarrett, Miloscia, Ormsby, Dunn, Priest, Roach, Dunshee, Woods, Upthegrove, Hunter and Ericks

AN ACT Relating to density bonus incentives to provide affordable housing; and adding a new chapter to Title 36 RCW.

Referred to Committee on Local Government.

HB 2325 by Representatives Simpson, Tom, B. Sullivan, Springer, Sells, Holmquist, McCune, O'Brien, Pettigrew, Ahern, DeBolt, Jarrett, Appleton, Miloscia, Ormsby, Dunn, Priest, Roach, Dunshee, Woods, Hunter and Ericks

AN ACT Relating to the development of affordable housing through flexible short subdivision; amending RCW 58.17.060; and creating a new section.

Referred to Committee on Local Government.

HB 2326 by Representatives Bailey, Alexander, Miloscia, Haler, Armstrong, McDonald, Ahern, Skinner, Rodne, Talcott, Clements, Nixon and Newhouse

AN ACT Relating to funding for public health improvement; amending RCW 43.79.480; adding a new section to chapter 43.70 RCW; and creating a new section.

Referred to Committee on Appropriations.

HJM 4023 by Representatives Moeller, Buck, Kessler, DeBolt, Haigh, Talcott, Morrell, Newhouse, Williams, Serben and Eickmeyer

Requesting Congress to enact the Kidney Care Quality Improvement Act of 2005.

Referred to Committee on Health Care.

HCR 4411 by Representatives McCoy and Santos

Creating a joint select committee on equitable opportunity for all.

SSB 5615 by Senate Committee on Ways & Means (originally sponsored by Senators Franklin, Delvin, Kohl-Welles, Parlette, Roach, Brown, Schmidt, Berkey, McAuliffe and Oke; by request of LEOFF Plan 2 Retirement Board)

AN ACT Relating to receiving a disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2; amending RCW 41.26.470; and declaring an emergency.

Referred to Committee on Appropriations.

There being no objection, the bills, memorial and resolution listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated with the exception of HOUSE BILL NO. 2326 and HOUSE CONCURRENT RESOLUTION NO. 4411.

MOTION

Representative Rodne moved that the rules be suspended and HOUSE BILL NO. 2326 be read in full the first time and be placed on the Second Reading calendar.

Representative Bailey spoke in favor of the motion.

Representative Kessler spoke against the motion.

The Speaker (Representative Lovick presiding) stated the question to be the motion to suspend the rules and place House Bill No. 2326 on the Second Reading calendar.

ROLL CALL

The Clerk called the roll on the motion to suspend the

rules and place House Bill No. 2326 on the Second Reading calendar and the motion failed the House by the following vote: Yeas - 41, Nays - 55, Absent - 0, Excused - 2.

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

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

Excused: Representatives Condotta and Tom - 2.

The motion, having not received the constitutional majority, was declared failed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on the motion to suspend the rules and place HOUSE BILL NO. 2326 on the Second Reading calendar.

MIKE SELLS, 38th District

There being no objection, HOUSE BILL NO. 2326 was referred to the Committee on Appropriations.

There being no objection, HOUSE CONCURRENT RESOLUTION NO. 4411 was read the first time, the rules were suspended and the concurrent resolution was placed on the Second Reading calendar.

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

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5743, By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Roach, Fairley, Benson, Berkey, Haugen, McAuliffe, Shin, Parlette, Keiser, Mulliken and Rockefeller; by request of Secretary of State)

Enhancing voter registration recordkeeping.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on State Government Operations & Accountability was not adopted. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Hunt moved adoption of amendment (481):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 10.64 RCW to read as follows:

When a person is convicted of a felony, the court shall require the defendant to sign a statement acknowledging that:

(1) The defendant's right to vote has been lost due to the felony conviction;

(2) If the defendant is registered to vote, the voter registration will be canceled;

(3) The right to vote may be restored by:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order issued by the sentencing court restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020; and

(4) Voting before the right is restored is a class C felony under RCW 29A.84.660.

Sec. 2. RCW 29A.08.010 and 2004 c 267 s 102 are each amended to read as follows:

As used in this chapter: "Information required for voter registration" means the minimum information provided on a voter registration application that is required by the county auditor in order to place a voter registration applicant on the voter registration rolls. This information includes ~~((the applicant's))~~:

(1) Name~~((complete residence))~~;

(2) Residential address~~((;))~~;

(3) Date of birth~~((;))~~;

(4) Washington state driver's license number~~((;))~~ or Washington state identification card number, or the last four digits of the applicant's Social Security number~~((;))~~ if the applicant does not have a Washington state driver's license or Washington state identification card;

(5) A signature attesting to the truth of the information provided on the application~~((;))~~; and

(6) A check or indication in the box confirming the individual is a United States citizen.

If the individual does not have a driver's license, state identification card, or Social Security number, the registrant must be issued a unique voter registration number ~~((and))~~ in order to be placed on the voter registration rolls. All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote. Modification of the language of the official Washington state voter registration form by the voter will not be accepted and will cause the rejection of the registrant's application.

Sec. 3. RCW 29A.08.030 and 2004 c 267 s 104 are each amended to read as follows:

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

(1) "Verification notice" means a notice sent by the county auditor or secretary of state to a voter registration applicant and is used to verify or collect information about the applicant in order to complete the registration. The verification notice must be designed to include a postage prepaid, preaddressed return form by which the applicant may verify or send information.

(2) "Acknowledgement notice" means a notice sent by nonforwardable mail by the county auditor or secretary of state to a registered voter to acknowledge a voter registration transaction, which can include initial registration, transfer, or reactivation of an inactive registration. An acknowledgement notice may be a voter registration card.

(3) "Confirmation notice" means a notice sent to a registered voter by first class forwardable mail at the address indicated on the voter's permanent registration record and to any other address at which the county auditor or secretary of state could reasonably expect mail to be received by the voter in order to confirm the voter's residence address. The confirmation notice must be designed ~~((so that the voter may update his or her current residence address))~~ to include a postage prepaid, preaddressed return form by which the registrant

may verify the address information.

Sec. 4. RCW 29A.08.107 and 2004 c 267 s 106 are each amended to read as follows:

(1) The secretary of state must review the information provided by each voter registration applicant to ensure that ~~((either))~~ the provided driver's license number, state identification card number, or ((the)) last four digits of the Social Security number match the information maintained by the Washington department of licensing or the Social Security administration. If a match cannot be made, the secretary of state or county auditor must correspond with the applicant to resolve the discrepancy.

(2) If the applicant fails to respond to any correspondence required in this section to confirm information provided on a voter registration application~~(s)~~ within ~~((thirty))~~ forty-five days, the applicant will not be registered to vote. The secretary of state shall forward the application to the appropriate county auditor for document storage.

(3) Only after the secretary of state has confirmed that ~~((an applicant's))~~ the provided driver's license number, state identification card number, or ((the)) last four digits of the applicant's Social Security number match existing records with the Washington department of licensing or the Social Security administration, or determined that the applicant does not have ~~((either))~~ a driver's license number, state identification card number, or Social Security number may the applicant be placed on the official list of registered voters.

(4) In order to prevent duplicate registration records, all complete voter registration applications must be screened against existing voter registration records in the official statewide voter registration list. If a match of an existing record is found in the official list, the record must be updated with the new information provided on the application. If the new information indicates that the voter has changed his or her county of residence, the application must be forwarded to the voter's new county of residence for processing.

Sec. 5. RCW 29A.08.110 and 2004 c 267 s 107 are each amended to read as follows:

(1) ~~((On receipt of an application for voter registration, the county auditor shall review the application to determine whether the information supplied is complete.))~~ An application is considered complete only if it contains the applicant's name, complete valid residence address, date of birth, ~~((and))~~ signature attesting to the truth of the information provided, a mark in the check-off box confirming United States citizenship, and an indication ((the license information)) that the provided driver's license number, state identification card number, or Social Security number has been confirmed by the secretary of state. If it is not complete, the auditor shall promptly mail a verification notice of the deficiency to the applicant. This verification notice shall require the applicant to provide the missing information. If the verification notice is not returned by the applicant within forty-five days or is returned as undeliverable ~~((the auditor shall not place)),~~ the name of the applicant shall not be placed on the ((county voter)) official list of registered voters. If the applicant provides the required verified information, the applicant shall be registered to vote as of the original date of mailing or date of delivery, whichever is applicable ((of the original voter registration application)).

(2) ~~((In order to prevent duplicate registration records, all complete voter registration applications must be screened against existing voter registration records in the official statewide voter registration list. If a match of an existing record is found in the official list the record must be updated with the new information provided on the application. If the new information indicates that the voter has changed his or her county of residence, the application must be forwarded to the voter's new county of residence for processing. If the new information indicates that the voter remains in the same county of residence or if the applicant is a new voter the application must be processed by the county of residence.~~

~~---~~~~((3))~~ If the information required in subsection (1) of this section is complete, the applicant is considered to be registered to vote as of the original date of mailing or date of delivery, whichever is applicable. The auditor shall record the appropriate precinct

identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Within forty-five days after the receipt of an application but no later than seven days before the next primary, special election, or general election, the auditor shall send to the applicant, by first class mail, an acknowledgement notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable. ~~((If the registrant has indicated on the form that he or she is registered to vote within the county but has provided a new address within the county that is for voter registration purposes, the auditor shall transfer the voter's registration.~~

~~---~~~~((4))~~ (3) If an acknowledgement notice card is properly mailed as required by this section to the address listed by the voter as being the voter's mailing address and the notice is subsequently returned to the auditor by the postal service as being undeliverable to the voter at that address, the auditor shall promptly send the voter a confirmation notice. The auditor shall place the voter's registration on inactive status pending a response from the voter to the confirmation notice.

NEW SECTION. Sec. 6. A new section is added to chapter 29A.08 RCW to read as follows:

No person registering to vote, who meets all the qualifications of a registered voter in the state of Washington, shall be disqualified because of a nontraditional address being used as a residence address. Voters using such an address will be registered and assigned to a precinct based on the location provided. Voters without a traditional address will be registered at the county courthouse, city hall, or other public building near the area that the voter considers his or her residence. Registering at a nontraditional address will not disqualify a voter from requesting ongoing absentee voter status if the voter designates a valid mailing address.

For the purposes of this section, "nontraditional address" includes shelters, parks, or other identifiable locations that the voter deems to be his or her residence.

NEW SECTION. Sec. 7. A new section is added to chapter 29A.08 RCW to read as follows:

(1) If a voter who registered by mail indicates on the voter registration form that he or she does not have a Washington state driver's license, Washington state identification card, or Social Security number, he or she must provide one of the following forms of identification the first time he or she votes after registering:

- (a) Valid photo identification;
- (b) A valid enrollment card of a federally recognized Indian tribe in Washington state;
- (c) A copy of a current utility bill;
- (d) A current bank statement;
- (e) A copy of a current government check;
- (f) A copy of a current paycheck; or
- (g) A government document that shows both the name and address of the voter.

(2) If the voter fails to provide one of the above forms of identification prior to or at the time of voting, the ballot must be treated as a provisional ballot regardless of whether the voter is voting at a poll site or by mail. The ballot may only be counted if the voter's signature on the outside envelope matches the signature in the voter registration records.

(3) The requirements of this section do not apply to an out-of-state, overseas, or service voter who registers to vote by signing the return envelope of the absentee ballot.

Sec. 8. RCW 29A.08.115 and 2004 c 267 s 108 are each amended to read as follows:

A person or organization collecting voter registration application forms must transmit the forms to the secretary of state or a ~~((designee))~~ county auditor at least once weekly. The registration date on such forms will be the date they are received by the secretary of state or county auditor.

Sec. 9. RCW 29A.08.145 and 2004 c 267 s 113 are each

amended to read as follows:

This section establishes a special procedure which an elector may use to register to vote or transfer a voter registration by changing his or her address during the period beginning after the closing of registration for voting at the polls under RCW 29A.08.140 and ending on the fifteenth day before a primary, special election, or general election. A qualified elector in the state may register to vote or change his or her registration address in person in the office of the county auditor of the county in which the applicant resides, or at a voter registration location specifically designated for this purpose by the county auditor ~~((of the county in which the applicant resides))~~ or secretary of state, and apply for an absentee ballot for that primary or election. The auditor or registration assistant shall register that individual in the manner provided in this chapter. The application for an absentee ballot executed by the newly registered or transferred voter for the primary or election that follows the execution of the registration shall be promptly transmitted to the auditor with the completed voter registration form.

Sec. 10. RCW 29A.08.210 and 2003 c 111 s 216 are each amended to read as follows:

An applicant for voter registration shall complete an application providing the following information concerning his or her qualifications as a voter in this state:

(1) The address of the last former registration of the applicant as a voter in the state;

(2) The applicant's full name;

(3) The applicant's date of birth;

(4) The address of the applicant's residence for voting purposes;

(5) The mailing address of the applicant if that address is not the same as the address in subsection (4) of this section;

(6) The sex of the applicant;

(7) The applicant's Washington state driver's license number or Washington state identification card number, or the last four digits of the applicant's Social Security number if he or she does not have a Washington state driver's license or Washington state identification card;

(8) A check box for the applicant to indicate that he or she does not have a Washington state driver's license, Washington state identification card, or social security number;

(9) A check box allowing the applicant to indicate that he or she is a member of the armed forces, national guard, or reserves, or that he or she is an overseas voter;

(10) A check box allowing the applicant to confirm that he or she is at least eighteen years of age;

(11) Clear and conspicuous language, designed to draw the applicant's attention, stating that the applicant must be a United States citizen in order to register to vote;

(12) A check box and declaration confirming that the applicant is a citizen of the United States;

(13) The following warning:

"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, a fine of up to ten thousand dollars, or both."

~~((8))~~ (14) The oath required by RCW 29A.08.230 and a space for the applicant's signature; and

~~((9))~~ (15) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and prevent duplicate or fraudulent voter registrations.

This information shall be recorded on a single registration form to be prescribed by the secretary of state.

If the applicant fails to provide the information required for voter registration, the auditor shall send the applicant a verification notice. The ~~((auditor shall not register the))~~ applicant may not be registered until the required information is provided. If a verification notice is returned as undeliverable or the applicant fails to respond to the notice within forty-five days, the ~~((auditor shall not register the))~~ applicant shall not be registered to vote.

~~((The following warning shall appear in a conspicuous place on the voter registration form:~~

~~"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, or by a fine of up to ten thousand dollars, or both imprisonment and fine.")~~

NEW SECTION. Sec. 11. A new section is added to chapter 29A.08 RCW to read as follows:

(1) When a felony offender has completed all the requirements of his or her sentence, the county clerk shall immediately transmit this information to the secretary of state along with information about the county where the conviction occurred and the county that is the last known residence of the offender. The secretary of state shall maintain such records as part of the elections data base.

(2) If the offender has completed all the requirements of all of his or her sentences for all of his or her felony convictions, the secretary of state shall transmit information about the restoration of the former felon's voting rights to the county auditor where the conviction took place and, if different, the county where the felon was last known to reside.

Sec. 12. RCW 29A.08.250 and 2004 c 267 s 117 are each amended to read as follows:

The secretary of state shall furnish registration forms necessary to carry out the registration of voters as provided by this chapter without cost to the respective counties. ~~((All voter registration forms must include clear and conspicuous language, designed to draw an applicant's attention, stating that the applicant must be a United States citizen in order to register to vote. Voter registration application forms must also contain a space for the applicant to provide his or her driver's license number or the last four digits of his or her social security number as well as check boxes intended to allow the voter to indicate age and United States citizenship eligibility under the Help America Vote Act of 2002 (P.L. 107-252).))~~

Sec. 13. RCW 29A.08.330 and 2003 c 111 s 224 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or transfer his or her voter registration by asking the following question:

"Do you want to register to vote or transfer your voter registration?"

If the applicant chooses to register or transfer a registration, the service agent shall ask the following:

(a) "Are you a United States citizen?"

(b) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register to vote or transfer a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration form.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

~~((4))~~ (5) Each designated agency shall provide for the voter registration application forms to be collected from each agency office at least once each week. The agency shall then forward the application forms to the secretary of state each week. The secretary of state shall forward the forms to the county in which the applicant has registered to vote no later than ten days after the date on which the forms were received by the secretary of state.

Sec. 14. RCW 29A.08.520 and 2004 c 267 s 126 are each amended to read as follows:

(1) Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration. Additionally, the secretary of state in conjunction with the department of corrections, the Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies shall arrange for a ~~((periodic))~~ quarterly comparison of a list of known felons with the statewide voter registration list. If a person is found on ~~((the department of corrections))~~ a felon list and the statewide voter registration list, the secretary of state or county auditor shall confirm the match through a date of birth comparison and ~~((cancel))~~ suspend the voter registration from the official state voter registration list. The canceling authority shall send ~~((notice of the proposed cancellation))~~ to the person at his or her last known voter registration address a notice of the proposed cancellation and an explanation of the requirements for restoring the right to vote once all terms of sentencing have been completed. If the person does not respond within thirty days, the registration must be canceled.

(2) The right to vote may be restored by, for each felony conviction, one of the following:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020.

Sec. 15. RCW 29A.08.651 and 2004 c 267 s 101 are each amended to read as follows:

(1) The office of the secretary of state shall create and maintain a statewide voter registration data base. This data base must be a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state.

(2) The computerized list must serve as the single system for storing and maintaining the official list of registered voters throughout the state.

(3) The computerized list must contain the name and registration information of every legally registered voter in the state.

(4) Under the computerized list, a unique identifier is assigned to each legally registered voter in the state.

(5) The computerized list must be coordinated with other agency data bases within the state, including but not limited to the department of corrections, the department of licensing, ~~((and))~~ the department of health, the Washington state patrol, and the office of the administrator for the courts.

(6) Any election officer in the state, including any local election officer, may obtain immediate electronic access to the information contained in the computerized list.

(7) All voter registration information obtained by any local election officer in the state must be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local officer.

(8) The chief state election officer shall provide support, as may be required, so that local election officers are able to enter information as described in subsection (3) of this section.

(9) The computerized list serves as the official voter registration

list for the conduct of all elections.

(10) The secretary of state has data authority on all voter registration data.

(11) The voter registration data base must be designed to accomplish at a minimum, the following:

(a) Comply with the Help America Vote Act of 2002 (P.L. 107-252);

(b) Identify duplicate voter registrations;

(c) Identify suspected duplicate voters;

(d) Screen against the department of corrections, the Washington state patrol, and other appropriate state agency data bases to aid in the cancellation of voter registration of felons;

(e) Provide up-to-date signatures of voters for the purposes of initiative signature checking;

(f) Provide for a comparison between the voter registration data base and the department of licensing change of address data base;

(g) Provide online access for county auditors with the goal of real time duplicate checking and update capabilities; and

(h) Provide for the cancellation of voter registration for persons who have moved to other states and surrendered their Washington state drivers' licenses.

(12) The secretary of state must review and update the records of all registered voters on the computerized list on a quarterly basis to make additions and corrections.

Sec. 16. RCW 29A.08.710 and 2004 c 267 s 133 are each amended to read as follows:

(1) The county auditor shall have custody of the original voter registration records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(2) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying, except as provided in RCW 40.24.060: The voter's name, address, political jurisdiction, gender, date of birth, voting record, date of registration, and registration number. ((The address and political jurisdiction of a registered voter are available for public inspection and copying except as provided by chapter 40.24 RCW.)) No other information from voter registration records or files is available for public inspection or copying.

Sec. 17. RCW 29A.08.720 and 2004 c 266 s 9 are each amended to read as follows:

(1) In the case of voter registration records received through the department of licensing, the identity of the office at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. In the case of voter registration records received through an agency designated under RCW 29A.08.310, the identity of the agency at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW 29A.08.310 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public.

(2) ~~((A))~~ Subject to the restrictions of RCW 29A.08.710, poll books, precinct lists, and ((or)) current lists of registered voters, ((except original voter registration forms or their images, shall be)) are public records and must be made available for public inspection and copying under such reasonable rules and regulations as the county auditor or secretary of state may prescribe. The county auditor or secretary of state shall promptly furnish current lists ((or mailing labels)) of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information. The lists ((and labels)) shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment,

organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the lists ~~((and labels))~~ may be used for any political purpose. The county auditor or secretary of state must provide a copy of RCW 29A.08.740 to the person requesting the material that is released pursuant to this section.

Sec. 18. RCW 29A.08.740 and 2003 c 111 s 249 and 2003 c 53 s 176 are each amended to read as follows:

(1) Any person who uses registered voter data furnished under RCW 29A.08.720 ~~((or 29A.08.730))~~ for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value is guilty of a class C felony punishable by imprisonment in a state correctional facility for a period of not more than five years or a fine of not more than ten thousand dollars or both such fine and imprisonment, and is liable to each person provided such advertisement or solicitation, without the person's consent, for the nuisance value of such person having to dispose of it, which value is herein established at five dollars for each item mailed or delivered to the person's residence. However, a person who mails or delivers any advertisement, offer, or solicitation for a political purpose is not liable under this section unless the person is liable under subsection (2) of this section. For purposes of this subsection, two or more attached papers or sheets or two or more papers that are enclosed in the same envelope or container or are folded together are one item. Merely having a mailbox or other receptacle for mail on or near the person's residence is not an indication that the person consented to receive the advertisement or solicitation. A class action may be brought to recover damages under this section, and the court may award a reasonable attorney's fee to any party recovering damages under this section.

(2) Each person furnished data under RCW 29A.08.720 ~~((or 29A.08.730))~~ shall take reasonable precautions designed to assure that the data is not used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the data may be used for any political purpose. Where failure to exercise due care in carrying out this responsibility results in the data being used for such purposes, then such person is jointly and severally liable for damages under subsection (1) of this section along with any other person liable under subsection (1) of this section for the misuse of such data.

Sec. 19. RCW 29A.08.775 and 2004 c 267 s 136 are each amended to read as follows:

Only voters who appear on the official statewide voter registration list are eligible to participate in elections. Each county shall maintain a copy of that county's portion of the state list. The county must ensure that data used for the production of poll lists and other lists and mailings done in the administration of each election are ~~((drawn from))~~ the same as the official statewide voter registration list.

Sec. 20. RCW 29A.40.091 and 2004 c 271 s 135 are each amended to read as follows:

The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany an absentee ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The larger return envelope must contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The return envelope must provide a box the voter may check to indicate that he or she is a member of the armed forces or that he or she is an overseas voter. The return envelope must provide space for the voter to

indicate the date on which the ballot was voted and for the voter to sign the oath. A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

Sec. 21. RCW 46.20.155 and 2004 c 249 s 7 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or transfer his or her voter registration by asking the following question:

"Do you want to register to vote or transfer your voter registration?"

If the applicant chooses to register or transfer a registration, the agent shall ~~((state))~~ ask the following:

~~((I would like to remind you that you must be a United States citizen and at least eighteen years of age in order to vote.))~~

(1) "Are you a United States citizen?"

(2) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register to vote or transfer a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration form.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

NEW SECTION. Sec. 22. The following acts or parts of acts are each repealed:

(1) RCW 29A.08.155 (Payment for maintenance of electronic records) and 2004 c 267 s 114 & 2003 c 111 s 215; and

(2) RCW 29A.08.730 (Registration, voting—Furnishing data upon request—Cost—Use restricted) and 2003 c 111 s 248, 1994 c 57 s 6, and 1973 1st ex. s. c 111 s 3.

NEW SECTION. Sec. 23. This act takes effect January 1, 2006."

Correct the title.

With the consent of the House, amendments (503), (482) and (544) was withdrawn.

Representative DeBolt moved the adoption of amendment (528) to amendment (481):

On page 1 of the striking amendment, after line 2, insert the following:

"NEW SECTION. Sec. 2. It is the intent of the legislature to create laws, procedures, and standards ensuring that United States citizens who are properly registered are able to vote in an efficient fashion. It is also the intent of the legislature to create laws, procedures, and standards ensuring that the non-United States citizens and those citizens who are not properly registered shall not be able to vote. It is the view of the legislature that illegal votes dilute the impact of legal votes."

Renumber the sections consecutively and correct any internal references accordingly.

Representatives DeBolt, Ericksen, DeBolt (again), Nixon, Anderson, Sump and Holmquist spoke in favor of the adoption of the amendment.

Representatives Santos and Haigh spoke against the adoption of the amendment.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (528) to amendment (481) to Engrossed Substitute Senate Bill No. 5743.

ROLL CALL

The Clerk called the roll on the adoption of amendment (528) to amendment (481) to Engrossed Substitute Senate Bill No. 5743, and the amendment was not adopted by the following vote: Yeas - 46, Nays - 50, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Ericks, Ericksen, Fromhold, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kilmer, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Springer, Strow, Sump, Talcott, Wallace, Walsh and Woods - 46.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Flannigan, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Sullivan, B., Sullivan, P., Takko, Upthegrove, Williams, Wood and Mr. Speaker - 50.

Excused: Representatives Condotta and Tom - 2.

Representative Hinkle moved the adoption of amendment (508) to amendment (481):

On page 1 of the striking amendment, after line 21, insert the following:

"NEW SECTION. Sec. 2. A new section is added to chapter 29A.08 RCW to read as follows:

(1) Persons who register to vote prior to August 1, 2005, must reregister to vote by August 1, 2006, in order to vote in elections held after August 1, 2006.

(2) If a court of competent jurisdiction rules that the reregistration requirements in subsection (1) conflict with federal law, then the requirements in subsection (1) only apply to registering for state and local elections and do not apply to registering for federal elections. The secretary of state shall adopt rules necessary to

implement this subsection."

Renumber the sections consecutively and correct any internal references accordingly.

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

Representative Haigh spoke against the adoption of the amendment.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (508) to amendment (481) to Engrossed Substitute Senate Bill No. 5743.

ROLL CALL

The Clerk called the roll on the adoption of amendment (508) to amendment (481) to Engrossed Substitute Senate Bill No. 5743, and the amendment was not adopted by the following vote: Yeas - 42, Nays - 54, Absent - 0, Excused - 2.

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

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

Excused: Representatives Condotta and Tom - 2.

Representative Sump moved the adoption of amendment (506) to amendment (481):

On page 1, at the beginning of line 24 of the striking amendment, insert "(1)"

On page 2, at the beginning of line 1 of the striking amendment, strike "(1) Name" and insert "(a) Full legal name"

On page 2, at the beginning of line 2 of the striking amendment, strike "(2) Residential" and insert "(b) Primary residential"

On page 2, at the beginning of line 3 of the striking amendment, strike "(3)" and insert "(c)"

On page 2, at the beginning of line 4 of the striking amendment, strike "(4)" and insert "(d)"

On page 2, at the beginning of line 9 of the striking amendment, strike "(5)" and insert "(e)"

On page 2, line 10 of the striking amendment, after "application" strike "(e); and" and insert "(~~e~~) ;"

On page 2, at the beginning of line 11 of the striking amendment, strike "(6)" and insert "(f)"

On page 2, line 12 of the striking amendment, after "citizen" insert "; and
(g) Proof of identity"

On page 2, at the beginning of line 13 of the striking amendment, insert "(2)"

On page 2, after line 21 of the striking amendment, insert:
"(3) For purposes of this section, "proof of identity" means any one of the following government issued documents:

- (a) A passport issued by the United States;
- (b) A certificate of United States citizenship issued by the United States;
- (c) A certificate of naturalization issued by the United States;
- (d) A current and valid driver's license or state identification card;
- (e) An identification card, issued by a federal, state, or local agency or entity, that contains a photograph;
- (f) A school identification card that contains a photograph;
- (g) A United States military card or draft record;
- (h) A military dependent's identification card;
- (i) A coast guard merchant mariner card; or
- (j) A native American tribal document.

(4) If a court of competent jurisdiction rules that the proof of identity required under this section violates federal law, such proof is not required to register to vote for elections for federal offices. However, proof of identity shall still be required to register to vote for elections for state offices or ballot measures.

NEW SECTION. Sec. 3. A new section is added to chapter 29A.08 RCW to read as follows:

A person registering in person must present the proof of identity required in RCW 29A.08.010 at the time of registration. A person registering by mail must provide a copy of the proof of identity required in RCW 29A.08.010 along with his or her application for registration."

Renumber the remaining sections consecutively and correct internal references accordingly.

On page 4, line 17 of the striking amendment, after "state" insert ", and an indication that the applicant provided proof of identity as required in RCW 29A.08.010 and section 3 of this act"

On page 8, after line 28 of the striking amendment, insert:
"The application form must contain instructions to the applicant to provide proof of identity as required in RCW 29A.08.010 and section 3 of this act."

Representatives Sump, Anderson, Armstrong, Nixon, Anderson (again), Orcutt, Ahern, Roach, Shabro, Haler and Serben spoke in favor of the adoption of the amendment to the amendment.

Representative Haigh, Hunt, Simpson and Flannigan spoke against the adoption of the amendment to the amendment.

SPEAKER'S RULING

Mr. Speaker (Representative Lovick presiding): "Again, the Speaker recognizes that members have strong views on the legislation under consideration. The rules of debate are designed specifically to ensure that the interchange of such views does not degenerate into a dispute. The tone of some remarks this evening has not been in keeping with the decorum expected of members of this body. The Speaker would ask again that each of you be respectful of your colleagues,

opposing views, and this institution."

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

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (506) to amendment (481) to Engrossed Substitute Senate Bill No. 5743.

ROLL CALL

The Clerk called the roll on the adoption of amendment (506) to amendment (481) to Engrossed Substitute Senate Bill No. 5743, and the amendment was not adopted by the following vote: Yeas - 42, Nays - 54, Absent - 0, Excused - 2.

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

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

Excused: Representatives Condotta and Tom - 2.

Representative Hinkle moved the adoption of amendment (507) to amendment (481):

On page 3 of the striking amendment, after line 8, insert the following:

"NEW SECTION. Sec. 4. A new section is added to chapter 29A.08 RCW to read as follows:

(1) Form of registration. In addition to the requirements of RCW 29A.08.010, the form of registration provided by the secretary of state or county auditor must include a statement that the applicant must submit evidence of United States citizenship. If the applicant registers in-person, citizenship documentation must be shown to a sworn election official. If the registration is by mail or through a registration drive, copies of citizenship documentation must be included with the application. The county auditor or secretary of state shall reject the application if no evidence of citizenship is attached.

(2) The county auditor or secretary of state shall reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship. Satisfactory evidence of citizenship includes any of the following:

(a) The number of the applicant's Washington state driver's license or Washington state identification card issued by the department of licensing, but only if the department indicates on the applicant's driver's license or identification card that the applicant has provided satisfactory proof of United States citizenship;

(b) A legible photocopy of the applicant's birth certificate that verifies citizenship to the satisfaction of the county auditor or secretary of state;

(c) A legible photocopy of pertinent pages of the applicant's United States passport identifying the applicant and the applicant's passport number or presentation to the county auditor or the secretary of state of the applicant's United States passport;

(d) A presentation to the county auditor or secretary of state of the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant must not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States Citizenship and Immigration Services by the county auditor or secretary of state;

(e) Other documents or methods of proof that are established under the federal Immigration Reform and Control Act of 1986; or

(f) The applicant's Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.

(3) Notwithstanding subsection (4) of this section, any person who is registered in this state on the effective date of this section is deemed to have provided satisfactory evidence of citizenship and may not be required to resubmit evidence of citizenship unless the person is changing voter registration from one county to another or reregistering to vote.

(4) Proof of voter registration from another state or county is not satisfactory evidence of citizenship.

(5) After a person has submitted satisfactory evidence of citizenship, the county auditor or secretary of state shall indicate this information in the person's permanent voter file. After two years, the county auditor or secretary of state may destroy all documents that were submitted as evidence of citizenship."

Renumber the sections consecutively and correct any internal references accordingly.

Representatives Hinkle, Talcott, Hinkle (again), Anderson, Sump, Roach, Newhouse, Buck, Skinner, Ericksen, Curtis and McDonald spoke in favor of the adoption of the amendment to the amendment.

Representatives Miloscia, Santos and Moeller spoke against the adoption of the amendment to the amendment.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (507) to amendment (481) to Engrossed Substitute Senate Bill No. 5743.

ROLL CALL

The Clerk called the roll on the adoption of amendment (507) to amendment (481) to Engrossed Substitute Senate Bill No. 5743, and the amendment was not adopted by the following vote: Yeas - 44, Nays - 52, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Sells, Serben, Shabro, Skinner, Strow, Sump, Takko, Talcott, Wallace, Walsh and Woods - 44.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Upthegrove, Williams, Wood and Mr. Speaker - 52.

Excused: Representatives Condotta and Tom - 2.

Representative Hunt moved the adoption of amendment (521) to the amendment (481):

On page 7 of the striking amendment, after line 22, insert the following:

"**Sec. 10.** RCW 29A.08.125 and 2004 c 267 s 110 are each amended to read as follows:

(1) Each county auditor shall maintain a computer file containing a copy of each record of all registered voters within the county contained on the official statewide voter registration list for that county.

(2) The secretary of state shall at least quarterly review and update the records of all registered voters on the official statewide voter registration database to make additions and corrections.

(3) The computer file must include, but not be limited to, each voter's last name, first name, middle initial, date of birth, residence address, gender, date of registration, applicable taxing district and precinct codes, and the last date on which the individual voted.

(4) The county auditor shall subsequently record each consecutive date upon which the individual has voted and retain all such consecutive dates."

Renumber the sections consecutively and correct any internal references accordingly.

On page 12 of the striking amendment, line 26, after "courts." insert "The computerized list may also be coordinated with the data bases of election officials in other states."

On page 13 of the striking amendment, line 12, after "felons" insert ", of persons who have declined to serve on juries by virtue of not being citizens of the United States, and of persons determined to be legally incompetent to vote"

On page 13 of the striking amendment, after line 22, insert the following:

"(12) In order to maintain the statewide voter registration data base, the secretary of state may, upon agreement with other appropriate jurisdictions, screen against data bases maintained by election officials in other states and data bases maintained by federal agencies including, but not limited to, the federal bureau of investigation, the federal court system, the federal bureau of prisons, and the bureau of citizenship and immigration services. (13) The secretary of state shall retain information regarding previous successful appeals of proposed cancellations of registrations in order to avoid repeated cancellations for the same reason."

Renumber the subsections consecutively and correct any internal references accordingly.

Representatives Hunt and Nixon spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Clements moved the adoption of amendment (517) to amendment (481):

On page 8 of the striking amendment, line 23, after "both." insert: "By signing this document, I hereby assert, under penalty of perjury, that I am legally eligible to vote. If I am found to have voted illegally, I may be prosecuted and/or fined for this illegal act. In addition, I hereby acknowledge that my name and last known address will be forwarded to the appropriate state and/or federal authorities if I am found to have voted illegally."

Representatives Clements and Hunt spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Nixon moved the adoption of amendment (502) to amendment (481):

On page 16, after line 19 of the striking amendment, insert:

"**Sec. 20.** RCW 29A.08.830 and 2003 c 111 s 255 are each amended to read as follows:

(1) Any registered voter may request that the registration of another voter be canceled if he or she believes that the voter does not meet the requirements of Article VI, section 1 of the state Constitution or that voter no longer maintains a legal voting residence at the address shown on his or her registration record. The challenger shall file with the county auditor a signed affidavit subject to the penalties of perjury, to the effect that to his or her personal knowledge and belief another registered voter does not actually reside at the address as given on his or her registration record, the address given on the registration record of the voter in question cannot possibly be a legal residence, or the voter in question is otherwise not a qualified voter and that the voter in question is not protected by the provisions of Article VI, section 4, of the Constitution of the state of Washington. ~~((The person filing the challenge must furnish the address at which the challenged voter actually resides.))~~

(2) Any such challenge of a voter's registration and right to vote made less than thirty days before a primary or election, special or general, shall be administered under RCW 29A.08.820. The county auditor shall notify the challenged voter and the precinct election officers in the voter's precinct that a challenge has been filed, provide the name of the challenger, and instruct both the precinct election officers and the voter that, in the event the challenged voter desires to vote at the ensuing primary or election, a challenged ballot will be provided. The voter shall also be informed that the status of his or her registration and the disposition of any challenged ballot will be determined by the county canvassing board in the manner provided by RCW 29A.08.820. If the challenged voter does not vote at the ensuing primary or election, the challenge shall be processed in the same manner as challenges made more than thirty days prior to the primary or election under RCW 29A.08.840."

Renumber the remaining sections consecutively and correct internal references accordingly.

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

Representative Kessler spoke against the adoption of the amendment.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (502) to amendment (481) to Engrossed Substitute Senate Bill No. 5743.

ROLL CALL

The Clerk called the roll on the adoption of amendment (502) to amendment (481) to Engrossed Substitute Senate Bill No. 5743, and the amendment was not adopted by the following vote: Yeas - 42, Nays - 54, Absent - 0, Excused - 2.

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

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

Excused: Representatives Condotta and Tom - 2.

Representative Hunt moved the adoption of amendment (519) to amendment (481):

On page 16 of the striking amendment, beginning on line 20, strike all of section 20 and insert the following:

"**Sec. 20.** RCW 29A.40.091 and 2004 c 271 s 135 are each amended to read as follows:

The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany an absentee ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The absentee voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and, except as otherwise provided by law, it is illegal to cast a ballot or sign an absentee envelope on behalf of another voter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. It must also contain a space that the voter may include a telephone number. A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope must also have a secrecy flap that the voter may seal that will cover the voter's signature and optional telephone number. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed."

Representatives Hunt and Nixon spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Haigh moved the adoption of amendment

(520) to amendment (481):

On page 17 of the striking amendment, after line 24, insert the following:

"NEW SECTION. Sec. 21. A new section is added to chapter 29A.44 RCW to read as follows:

Any person desiring to vote at the polls at any primary or election must provide identification to the election officer before signing the poll book. The identification required in this section may be satisfied by providing the following forms of identification as chosen by the voter:

(1) A physical form of identification, which may be:

(a) An original or copy of a current and valid photo identification with or without an address. The address is not required to match the voter's voter identification card; or

(b) An original or copy of a utility bill, bank statement, government check, paycheck, student identification card, tribal identification card, or other government document that shows the name and address of the person. The address is not required to match the voter's voter identification card; or

(2) A verbal or written statement by the voter of the voter's name, year of birth, and unique identifier as determined by the secretary of state. The statement of the voter's name does not need to contain the voter's middle initial or suffix.

(3) If the voter does not have identification and does not know his or her unique identifier, he or she shall vote a provisional ballot."

Renumber the sections consecutively and correct any internal references accordingly.

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

Representative Nixon spoke against the adoption of the amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 55 - YEAS; 41 -NAYS.

The amendment to the committee amendment was adopted.

Representative Haler moved the adoption of amendment (504) to amendment (481):

On page 17, after line 24 of the striking amendment, insert:

"Sec. 21. RCW 29A.84.140 and 2003 c 111 s 2108 are each amended to read as follows:

A person who knows that he or she does not possess the legal qualifications of a voter and who registers to vote is guilty of a ~~((misdemeanor punishable under RCW 9A.20.021))~~ class C felony."

Renumber the remaining sections consecutively and correct internal references accordingly.

Representatives Haler and Hunt spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Clements moved the adoption of amendment (505) to amendment (481):

On page 17 of the striking amendment, after line 24, insert the following:

"Sec. 21. RCW 46.20.118 and 1990 c 250 s 37 are each

amended to read as follows:

The department shall maintain a negative file. It shall contain negatives of all pictures taken by the department of licensing as authorized by RCW 46.20.070 through 46.20.119. Negatives in the file shall not be available for public inspection and copying under chapter 42.17 RCW. The department may make the file available to official governmental enforcement agencies to assist in the investigation by the agencies of suspected criminal activity. The department shall make the file available to the office of the secretary of state, at the expense of the secretary of state, to assist in maintenance of the statewide voter registration data base. The department may also provide a print to the driver's next of kin in the event the driver is deceased."

Renumber the sections consecutively and correct any internal references accordingly.

Representatives Clements and Kenney spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Amendment (481) as amended was adopted.

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

Representative Hunt spoke in favor of passage of the bill.

Representatives Nixon, Anderson and Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5743 as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5743, as amended by the House and the bill passed the House by the following vote: Yeas - 54, Nays - 42, Absent - 0, Excused - 2.

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

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

Excused: Representatives Condotta and Tom - 2.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5743, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, Substitute Senate Bill No. 5060 was placed on the Second Reading calendar.

There being no objection, Substitute Senate Bill No. 5611 was placed on the Second Reading calendar.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5499, By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Berkey, Fairley, Pridemore, Franklin, Haugen, Shin, Kohl-Welles, Doumit, Rasmussen and Keiser)

Clarifying and standardizing various election procedures.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on State Government Operations & Applicability was not adopted. (For committee amendment, see Journal, 85th Day, April 4, 2005.)

Representative Hunt moved adoption of amendment (486):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.04.008 and 2004 c 271 s 102 are each amended to read as follows:

As used in this title:

(1) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;

(c) A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or

(d) The physical document on which the voter's choices are to be recorded;

(2) "Paper ballot" means a piece of paper on which the ballot for a particular election or primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

(3) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;

(4) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election;

(5) "Provisional ballot" means a ballot issued ~~((to a voter))~~ at the polling place on election day by the precinct election board ~~((for one of the following reasons))~~ to a voter who would otherwise be denied an opportunity to vote a regular ballot, for any reason authorized by the help America vote act, including but not limited to the following:

(a) The voter's name does not appear in the poll book;

(b) There is an indication in the poll book that the voter has requested an absentee ballot, but the voter wishes to vote at the polling place;

(c) There is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote;

(d) Any other reason allowed by law;

(6) "Party ballot" means a primary election ballot specific to a particular major political party that lists all partisan offices to be voted on at that primary, and the candidates for those offices who affiliate with that same major political party;

(7) "Nonpartisan ballot" means a primary election ballot that lists all nonpartisan races and ballot measures to be voted on at that primary.

Sec. 2. RCW 29A.04.530 and 2003 c 111 s 151 are each amended to read as follows:

The secretary of state shall:

(1) Establish and operate, or provide by contract, training and certification programs for state and county elections administration officials and personnel, including training on the various types of election law violations and discrimination, and training programs for political party observers which conform to the rules for such programs established under RCW 29A.04.630;

(2) Establish guidelines, in consultation with state and local law enforcement or certified document examiners, for signature verification processes. All election personnel assigned to verify signatures must receive training on the guidelines;

(3) Administer tests for state and county officials and personnel who have received such training and issue certificates to those who have successfully completed the training and passed such tests;

~~((3))~~ (4) Maintain a record of those individuals who have received such training and certificates; and

~~((4))~~ (5) Provide the staffing and support services required by the board created under RCW 29A.04.510.

NEW SECTION. **Sec. 3.** A new section is added to chapter 29A.36 RCW to read as follows:

All provisional ballots must be visually distinguishable from the other ballots and must be either:

(1) Printed on colored paper; or

(2) Imprinted with a bar code for the purpose of identifying the ballot as a provisional ballot. The bar code must not identify the voter.

Provisional ballots must be incapable of being tabulated by poll-site counting devices.

Sec. 4. RCW 29A.40.091 and 2004 c 271 s 135 are each amended to read as follows:

The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany an absentee ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The absentee voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter.

The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and, except as otherwise provided by law, it is illegal to cast a ballot or sign an absentee envelope on behalf of another voter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. It must also contain a space that the voter may include a telephone number.

A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope must also have a secrecy flap that the voter may seal that will cover the voter's signature and optional telephone number. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the

county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

Sec. 5. RCW 29A.40.110 and 2003 c 111 s 1011 are each amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin ~~((on or after the tenth day before the primary or election))~~ upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received absentee return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until after 8:00 p.m. of the day of the primary or election. Absentee ballots that are to be tabulated on an electronic vote tallying system may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) Before opening a returned absentee ballot, the canvassing board, or its designated representatives, shall examine the postmark, statement, and signature on the return envelope that contains the security envelope and absentee ballot. They shall verify that the voter's signature on the return envelope is the same as the signature of that voter in the registration files of the county. For registered voters casting absentee ballots, the date on the return envelope to which the voter has attested determines the validity, as to the time of voting for that absentee ballot if the postmark is missing or is illegible. For out-of-state voters, overseas voters, and service voters stationed in the United States, the date on the return envelope to which the voter has attested determines the validity as to the time of voting for that absentee ballot. For any absentee ballot, a variation between the signature of the voter on the return envelope and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

NEW SECTION. Sec. 6. A new section is added to chapter 29A.44 RCW to read as follows:

Provisional ballots must be issued, along with a provisional ballot outer envelope and a security envelope, to voters as appropriate under RCW 29A.04.008. The provisional ballot outer envelope must include a place for the voter's name; registered address, both present and former if applicable; date of birth; reason for the provisional ballot; the precinct number and the precinct polling location at which the voter has voted; and a space for the county auditor to list the disposition of the provisional ballot. The provisional ballot outer envelope must also contain a declaration as required for absentee ballot outer envelopes under RCW 29A.40.091; a place for the voter to sign the oath; and a summary of the applicable penalty provisions of this chapter. The voter shall vote the provisional ballot in secrecy and, when done, place the provisional ballot in the security envelope, then place the security envelope into the outer envelope, and return it to the precinct election official. The election official shall ensure that the required information is completed on the outer envelope, have the voter sign it in the appropriate space, and place the envelope in a secure container. The official shall then give the voter written information advising the voter how to ascertain whether the vote was counted and, if applicable, the reason why the vote was not counted.

NEW SECTION. Sec. 7. A new section is added to chapter 29A.44 RCW to read as follows:

Any person desiring to vote at the polls at any primary or election must provide identification to the election officer before signing the poll book. The identification required in this section may be satisfied by providing the following forms of identification as chosen by the voter:

(1) A physical form of identification, which may be:

(a) An original or copy of a current and valid photo identification with or without an address. The address is not required

to match the voter's voter identification card; or

(b) An original or copy of a utility bill, bank statement, government check, paycheck, student identification card, tribal identification card, or other government document that shows the name and address of the person. The address is not required to match the voter's voter identification card; or

(2) A verbal or written statement by the voter of the voter's name, year of birth, and unique identifier as determined by the secretary of state. The statement of the voter's name does not need to contain the voter's middle initial or suffix.

(3) If the voter does not have identification and does not know his or her unique identifier, he or she shall vote a provisional ballot.

NEW SECTION. Sec. 8. A new section is added to chapter 29A.60 RCW to read as follows:

(1) If the voter neglects to sign the outside envelope of an absentee or provisional ballot, the auditor shall notify the voter by telephone and advise the voter of the correct procedures for completing the unsigned affidavit. If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter. In order for the ballot to be counted, the voter must either:

(a) Appear in person and sign the envelope no later than the day before the certification of the primary or election; or

(b) Sign a copy of the envelope provided by the auditor, and return it to the auditor no later than the day before the certification of the primary or election.

(2)(a) If the handwriting of the signature on an absentee or provisional ballot envelope is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by telephone and advise the voter of the correct procedures for updating his or her signature on the voter registration file. If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter. In order for the ballot to be counted, the voter must either:

(i) Appear in person and sign a new registration form no later than the day before the certification of the primary or election; or

(ii) Sign a copy of the affidavit provided by the auditor and return it to the auditor no later than the day before the certification of the primary or election. If the signature on the copy of the affidavit does not match the signature on file, the voter must appear in person and sign a new registration form no later than the day before the certification of the primary or election in order for the ballot to be counted.

(b) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form. That record is a public record under chapter 42.17 RCW and may be disclosed to interested parties on written request.

NEW SECTION. Sec. 9. A new section is added to chapter 29A.60 RCW to read as follows:

Before certification of the primary or election, the county auditor must examine and investigate all received provisional ballots to determine whether the ballot can be counted. The auditor shall provide the disposition of the provisional ballot and, if the ballot was not counted, the reason why it was not counted, on a free access system such as a toll-free telephone number, web site, mail, or other means. The auditor must notify the voter in accordance with section 7 of this act when the envelope is unsigned or when the signatures do not match.

NEW SECTION. Sec. 10. A new section is added to chapter 29A.60 RCW to read as follows:

(1) The county auditor shall prepare, make publicly available at the auditor's office or on the auditor's web site, and submit at the time of certification an election reconciliation report that discloses the following information:

- (a) The number of registered voters;
- (b) The number of ballots counted;
- (c) The number of provisional ballots issued;
- (d) The number of provisional ballots counted;
- (e) The number of provisional ballots rejected;
- (f) The number of absentee ballots issued;
- (g) The number of absentee ballots counted;
- (h) The number of absentee ballots rejected;
- (i) The number of federal write-in ballots counted;
- (j) The number of out-of-state, overseas, and service ballots issued;
- (k) The number of out-of-state, overseas, and service ballots counted; and
- (l) The number of out-of-state, overseas, and service ballots rejected.

(2) The county auditor shall prepare and make publicly available at the auditor's office or on the auditor's web site within thirty days of certification a final election reconciliation report that discloses the following information:

- (a) The number of registered voters;
 - (b) The total number of voters credited with voting;
 - (c) The number of poll voters credited with voting;
 - (d) The number of provisional voters credited with voting;
 - (e) The number of absentee voters credited with voting;
 - (f) The number of federal write-in voters credited with voting;
 - (g) The number of out-of-state, overseas, and service voters credited with voting;
 - (h) The total number of voters credited with voting even though their ballots were postmarked after election day and were not counted; and
 - (i) Any other information the auditor deems necessary to reconcile the number of ballots counted with the number of voters credited with voting.
- (3) The county auditor may also prepare such reports for jurisdictions located, in whole or in part, in the county.

Sec. 11. RCW 29A.60.021 and 2004 c 271 s 147 are each amended to read as follows:

(1) For any office at any election or primary, any voter may write in on the ballot the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by RCW 29A.24.311 and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter. ~~((For a partisan primary in a jurisdiction using the physically separate ballot format, a voter may write in on a party ballot only the names of write-in candidates who affiliate with that major political party.))~~ No write-in vote made for any person who has not filed a declaration of candidacy pursuant to RCW 29A.24.311 is valid if that person filed for the same office, either as a regular candidate or a write-in candidate, at the preceding primary. Any abbreviation used to designate office~~(s)~~ or position~~(s) or political party shall~~ will be accepted if the canvassing board can determine, to ~~((their))~~ its satisfaction, the voter's intent.

(2) The number of write-in votes cast for each office must be recorded and reported with the canvass for the election.

(3) A write-in vote for an individual candidate for an office whose name appears on the ballot for that same office is a valid vote

for that candidate as long as the candidate's name is clearly discernible, even if other requirements of RCW 29A.24.311 are not satisfied and even if the voter also marked a vote for that candidate such as to register an over vote. These votes need not be tabulated unless: (a) The difference between the number of votes cast for the candidate apparently qualified to appear on the general election ballot or elected and the candidate receiving the next highest number of votes is less than the sum of the total number of write-in votes cast for the office plus the over votes and under votes recorded by the vote tabulating system; or (b) a manual recount is conducted for that office.

~~(4) Write-in votes cast for an individual candidate for an office whose name does not appear on the ballot need not be tallied ((#)) unless the total number of write-in votes and under votes recorded by the vote tabulation system for the office is ((not)) greater than the number of votes cast for the candidate apparently ((nominated)) qualified to appear on the general election ballot or elected((, and the write-in votes could not have altered the outcome of the primary or election. In the case of write-in votes for statewide office or for any office whose jurisdiction encompasses more than one county, write-in votes for an individual candidate must be tallied whenever the county auditor is notified by either the office of the secretary of state or another auditor in a multicounty jurisdiction that it appears that the write-in votes could alter the outcome of the primary or election)).~~

~~((#)) (5) In the case of write-in votes for a statewide office((s)) or any office whose jurisdiction((s that)) encompasses more than one county, ((if the total number of write-in votes and under votes recorded by the vote tabulation system for an office within a county is greater than the number of votes cast for a candidate apparently nominated or elected in a primary or election, the auditor shall tally all write-in votes for individual candidates for that office and notify the office of the secretary of state and the auditors of the other counties within the jurisdiction, that the write-in votes for individual candidates should be tallied)) write-in votes for an individual candidate must be tallied when the county auditor is notified by either the secretary of state or another county auditor in the multicounty jurisdiction that it appears that the write-in votes must be tabulated under the terms of this section. In all other cases, the county auditor determines when write-in votes must be tabulated. Any abstract of votes must be modified to reflect the tabulation and certified by the canvassing board. Tabulation of write-in votes may be performed simultaneously with a recount.~~

Sec. 12. RCW 29A.60.050 and 2003 c 111 s 1505 are each amended to read as follows:

Whenever the precinct election officers or the counting center personnel have a question about the validity of a ballot or the votes for an office or issue that they are unable to resolve, they shall prepare and sign a concise record of the facts in question or dispute. These ballots shall be delivered to the canvassing board for processing. A ballot is not considered rejected until the canvassing board has rejected the ballot individually, or the ballot was included in a batch or on a report of ballots that was rejected in its entirety by the canvassing board. All ballots shall be preserved in the same manner as valid ballots for that primary or election.

Sec. 13. RCW 29A.60.070 and 2003 c 111 s 1507 are each amended to read as follows:

The county auditor shall produce cumulative and precinct returns for each primary and election and deliver them to the canvassing board for verification and certification. The precinct and cumulative returns of any primary or election are public records under chapter 42.17 RCW.

Cumulative returns for state offices, judicial offices, the United States senate, and congress must be electronically transmitted to the secretary of state immediately.

Sec. 14. RCW 29A.60.160 and 2003 c 111 s 1516 are each amended to read as follows:

~~((At least every third day after a primary or election and before certification of the election results,))~~ Except Sundays and legal holidays, the county auditor, as delegated by the county canvassing board, shall process absentee ballots and canvass the votes cast at that

primary or election on a daily basis in counties with a population of seventy-five thousand or more, or at least every third day for counties with a population of less than seventy-five thousand, if the county auditor is in possession of more than twenty-five ballots that have yet to be canvassed. The county auditor, as delegated by the county canvassing board, may use his or her discretion in determining when to process the remaining absentee ballots and canvass the votes during the final four days before the certification of election results in order to protect the secrecy of any ballot. In counties where this process has not been delegated to the county auditor, the county auditor shall convene the county canvassing board to process absentee ballots and canvass the votes cast at the primary or election as set forth in this section.

Each absentee ballot previously not canvassed that was received by the county auditor two days or more before processing absentee ballots and canvassing the votes as delegated by or processed by the county canvassing board, that either was received by the county auditor before the closing of the polls on the day of the primary or election for which it was issued, or that bears a postmark on or before the primary or election for which it was issued, must be processed at that time. The tabulation of votes that results from that day's canvass must be made available to the general public immediately upon completion of the canvass.

Sec. 15. RCW 29A.60.190 and 2004 c 266 s 18 are each amended to read as follows:

(1) ~~((On the tenth day after a special election or primary and on the fifteenth day))~~ Ten days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each absentee ballot that was returned before the closing of the polls on the date of the primary or election for which it was issued, and each absentee ballot with a postmark on or before the date of the primary or election for which it was issued and received on or before the date on which the primary or election is certified, must be included in the canvass report.

(2) At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.

Sec. 16. RCW 29A.60.210 and 2003 c 111 s 1521 are each amended to read as follows:

Whenever the canvassing board finds during the initial counting process, or during any subsequent recount thereof, that there is an apparent discrepancy or an inconsistency in the returns of a primary or election, or that election staff has made an error regarding the treatment or disposition of a ballot, the board may recanvass the ballots or voting devices in any precincts of the county. The canvassing board shall conduct any necessary recanvass activity on or before the last day to certify or recertify the results of the primary ~~((or))~~ election, or subsequent recount and correct any error and document the correction of any error that it finds.

Sec. 17. RCW 29A.60.250 and 2003 c 111 s 1525 are each amended to read as follows:

As soon as the returns have been received from all the counties of the state, but not later than the thirtieth day after the election, the secretary of state shall ~~((make a))~~ canvass ~~((of such of the returns as are not required to be canvassed by the legislature and make out a statement thereof, file it in his or her office, and transmit a certified copy to the governor))~~ and certify the returns of the general election as to candidates for state offices, the United States senate, congress, and all other candidates whose districts extend beyond the limits of a single county. The secretary of state shall transmit a copy of the certification to the governor, president of the senate, and speaker of the house of representatives.

Sec. 18. RCW 29A.64.021 and 2004 c 271 s 178 are each amended to read as follows:

(1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of

votes cast for a candidate apparently nominated or elected to any office and the number of votes cast for the closest apparently defeated opponent is less than two thousand votes and also less than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position the declaration of candidacy for which was filed with the secretary of state, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b)(i) For statewide elections, if the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one ~~((hundred fifty))~~ thousand votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(ii) For elections not included in (b)(i) of this subsection, if the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one hundred fifty votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(2) A mandatory recount shall be conducted in the manner provided by RCW 29A.64.030, 29A.64.041, and 29A.64.061. No cost of a mandatory recount may be charged to any candidate.

(3) The apparent winner and closest apparently defeated opponent for an office for which a manual recount is required under subsection (1)(b) of this section may select an alternative method of conducting the recount. To select such an alternative, the two candidates shall agree to the alternative in a signed, written statement filed with the election official for the office. The recount shall be conducted using the alternative method if: It is suited to the balloting system that was used for casting the votes for the office; it involves the use of a vote tallying system that is approved for use in this state by the secretary of state; and the vote tallying system is readily available in each county required to conduct the recount. If more than one balloting system was used in casting votes for the office, an alternative to a manual recount may be selected for each system.

Sec. 19. RCW 29A.64.030 and 2003 c 111 s 1603 are each amended to read as follows:

An application for a recount shall state the office for which a recount is requested and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application for a manual recount shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to twenty-five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. If the application is for a machine recount, the deposit must be equal to fifteen cents for each ballot. These charges shall be determined by the county canvassing board or boards under RCW ~~((29A.64.080))~~ 29A.64.081.

The county canvassing board shall determine ~~((a))~~ the date, time, and ((a)) place or places at which the recount will be conducted. ~~((This time shall be less than three business days after the day upon which the application was filed with the board; the request for a recount or directive ordering a recount was received by the board from the secretary of state; or the returns are certified which indicate that a recount is required under RCW 29A.64.020 for an issue or office voted upon only within the county.))~~ Not less than two days before the date of the recount, the county auditor shall mail a notice of the time and place of the recount to the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office. The county auditor shall also notify the affected parties by either telephone, fax, e-mail, or other electronic means at the time of mailing. At least three attempts must be made over a two-day period to notify the affected parties or until the affected parties have received the notification. Each attempt to notify affected parties must request a return response indicating that the notice has been received. Each person entitled to receive notice

of the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount.

Sec. 20. RCW 29A.64.061 and 2004 c 271 s 180 are each amended to read as follows:

Upon completion of the canvass of a recount, the canvassing board shall prepare and certify an amended abstract showing the votes cast in each precinct for which the recount was conducted. Copies of the amended abstracts must be transmitted to the same officers who received the abstract on which the recount was based.

If the nomination, election, or issue for which the recount was conducted was submitted only to the voters of a county, the canvassing board shall file the amended abstract with the original results of that election or primary.

If the nomination, election, or issue for which a recount was conducted was submitted to the voters of more than one county, the secretary of state shall canvass the amended abstracts and shall file an amended abstract with the original results of that election. The secretary of state may require that the amended abstracts be certified by each canvassing board on a uniform date. An amended abstract certified under this section supersedes any prior abstract of the results for the same offices or issues at the same primary or election.

Sec. 21. RCW 29A.68.011 and 2004 c 271 s 182 are each amended to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the issuance of a certificate of election.

An affidavit of an elector under subsections (1) and (3) ~~((above))~~ of this section when relating to a primary election must be filed with the appropriate court no later than the second Friday following the closing of the filing period for nominations for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the ~~((issuance of a certificate of election))~~ official certification of the election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.

NEW SECTION. Sec. 22. A new section is added to chapter 29A.84 RCW to read as follows:

A person who knowingly destroys, alters, defaces, conceals, or

discards a completed voter registration form or signed absentee or provisional ballot signature affidavit is guilty of a gross misdemeanor. This section does not apply to (1) the voter who completed the voter registration form, or (2) a county auditor or registration assistant who acts as authorized by voter registration law.

Sec. 23. RCW 29A.84.650 and 2003 c 111 s 2131 are each amended to read as follows:

(1) Any person who intentionally votes or attempts to vote in this state more than once at any ((primary or general or special)) election, or who intentionally votes or attempts to vote in both this state and another state at any election, is guilty of a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

(2) Any person who recklessly or negligently violates this section commits a class 1 civil infraction as provided in RCW 7.80.120."

NEW SECTION. Sec. 24. This act takes effect January 1, 2006."

Correct the title.

With the consent of the House, amendments (545) and (533) were withdrawn.

Representative Ericksen moved the adoption of amendment (509) to amendment (486):

On page 1 of the striking amendment, after line 2, insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to encourage legally eligible citizens to exercise their right to vote. It is further the intent of the legislature to ensure that citizens legally entitled to vote do not have their votes rendered ineffective due to votes cast by ineligible or illegal voters. Requiring positive identification and proof of citizenship are paramount to a fair and reliable election. Only through prescribed and transparent processes will citizens' trust in elections be restored."

Renumber the sections consecutively and correct any internal references accordingly.

Representatives Ericksen and Roach spoke in favor of the adoption of the amendment.

Representative Miloscia spoke against the adoption of the amendment.

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

The Speaker stated the question before the House to be adoption of amendment (509) to amendment (486) to Engrossed Substitute Senate Bill No. 5499.

ROLL CALL

The Clerk called the roll on the adoption of amendment (509) to amendment (486) to Engrossed Substitute Senate Bill No. 5499, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 53, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, Lovick, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro,

Skinner, Strow, Sump, Talcott, Wallace, Walsh and Woods - 43.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Williams, Wood and Mr. Speaker - 53.

Excused: Representatives Condotta and Tom - 2.

Representative Kristiansen moved the adoption of amendment (511) to amendment (486):

On page 2, line 20 of the striking amendment, after "primary" insert ":

(8) "Mark of identification" means any mark, symbol, sign, spot, dot, or speck placed on a ballot that either does not follow the rules of the voting procedure provided for in the voting directions or has the potential to link a ballot to a particular voter. A vote for a candidate on a ballot that fully adheres to the rules of the voting procedure provided for in the voting directions is not a mark of identification:

(9) "Ballot enhancement" is the process of adding, modifying, or covering marks of identification on a ballot to ensure that the electronic voting equipment will tally the votes on the ballot in the manner intended by the voter, or as directed by the canvassing board"

On page 6, after line 30 of the striking amendment, insert:

"NEW SECTION. Sec. 8. A new section is added to chapter 29A.60 RCW to read as follows:

(1) Ballots may not be enhanced, as defined in RCW 29A.04.008. If a ballot is rejected by a tabulating machine during the tallying or machine recount process, the ballot must be separated from all other validly tabulated ballots and later considered by the canvassing board.

(2) Any mark of identification that correlates to a candidate or ballot measure on the ballot may not be counted as a vote for the candidate or ballot measure. A ballot may not be duplicated or enhanced with respect to a mark of identification that correlates with a candidate or ballot measure.

(3) Except as provided in subsection (4) of this section, a ballot may be duplicated, but not enhanced, with respect to any vote for a candidate or ballot measure cast pursuant to the rules of the voting procedure provided for in the voting directions.

(4) Any mark of identification, as defined in RCW 29A.04.008, on a ballot that has the potential to link the ballot to a particular voter invalidates the entire ballot."

Renumber the remaining sections consecutively and correct internal references accordingly.

Representatives Kristiansen, Armstrong, Ericksen and Nixon spoke in favor of the adoption of the amendment.

Representative Hunt spoke against the adoption of the amendment.

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

The Speaker stated the question before the House to be adoption of amendment (511) to amendment (486) to Engrossed Substitute Senate Bill No. 5499.

ROLL CALL

The Clerk called the roll on the adoption of amendment (511) to amendment (486) to Engrossed Substitute Senate Bill No. 5499, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 53, Absent - 0, Excused - 2.

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

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Williams, Wood and Mr. Speaker - 53.

Excused: Representatives Condotta and Tom - 2.

Representative Shabro moved the adoption of amendment (512) to amendment (486):

On page 3, line 7 of the striking amendment, after "provisional" insert " , mail, and absentee"

On page 3, line 7 of the striking amendment, after "from" strike "the other ballots" and insert "each other"

On page 3, line 11 of the striking amendment, after "provisional" insert " , mail, or absentee"

On page 3, line 13 of the striking amendment, after "Provisional" insert " , mail, and absentee"

Representatives Shabro and Haigh spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Ericksen moved the adoption of amendment (510) to amendment (486):

On page 3 of the striking amendment, line 35, after "voter" insert ""The return envelope must provide a space for the voter to write in his or her birth date or the date of registration as indicated on his or her voter identification card. The envelope must include a space requesting the voter's telephone number so that the auditor could easily contact the voter if there were a problem with the voter's ballot; however, it must be noted that providing this information is optional."

On page 3 of the striking amendment, line 37, after "oath." strike ""It must also contain a space that the voter may include a telephone number."

On page 4 of the striking amendment, line 8, after "signature" insert " , birth date,"

On page 5 of the striking amendment, line 28, after "birth" insert ""or the date of registration as indicated on the voter identification card"

On page 6 of the striking amendment, beginning on line 31, strike all of section 8 and insert the following:

"NEW SECTION. Sec. 8. A new section is added to chapter

29A.60 RCW to read as follows:

(1) When processing the outside envelope of an absentee or provisional ballot, the signature on the envelope and the birth date or date of voter registration, as it appears on the voter registration card, shall be matched against the signature and birth date or registration date on the voter's registration file. A signature match by itself is insufficient for proof of identification and the ballot will not be counted unless a birth date or date of voter registration match is also made.

(2) If the voter neglects to include his or her birth date or date of voter registration, the auditor shall notify the voter by telephone and advise the voter of the correct procedures for providing the necessary information. If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for providing the missing information. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter. In order for the ballot to be counted, the voter must either:

(a) Appear in person and complete the missing information on the envelope no later than the day before the certification of the primary or election; or

(b) Return a copy of the envelope provided by the auditor, and return it with a birth date or voter registration date included to the auditor no later than the day before the certification of the primary or election.

(3) If the voter neglects to sign the outside envelope of an absentee or provisional ballot, the auditor shall notify the voter by telephone and advise the voter of the correct procedures for completing the unsigned affidavit. If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter. In order for the ballot to be counted, the voter must either:

(a) Appear in person and sign the envelope no later than the day before the certification of the primary or election; or

(b) Sign a copy of the envelope provided by the auditor, and return it to the auditor no later than the day before the certification of the primary or election.

(4) (a) If the handwriting of the signature on an absentee or provisional ballot envelope is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by telephone and advise the voter of the correct procedures for updating his or her signature on the voter registration file. If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter. In order for the ballot to be counted, the voter must either:

(i) Appear in person and sign a new registration form no later than the day before the certification of the primary or election; or

(ii) Sign a copy of the affidavit provided by the auditor and return it to the auditor no later than the day before the certification of the primary or election. If the signature on the copy of the affidavit does not match the signature on file, the ballot will not be counted.

(b) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(5) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(6) A record must be kept of the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope or a copy of the envelope, or completed the missing birth date or registration date. That record is a public record

under chapter 42.17 RCW and may be disclosed to interested parties on written request."

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

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

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

The Speaker stated the question before the House to be adoption of amendment (510) to amendment (486) to Engrossed Substitute Senate Bill No. 5499.

ROLL CALL

The Clerk called the roll on the adoption of amendment (510) to amendment (486) to Engrossed Substitute Senate Bill No. 5499, and the amendment was not adopted by the following vote: Yeas - 44, Nays - 52, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kilmer, Kretz, Kristiansen, Lovick, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Wallace, Walsh and Woods - 44.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Uptegrove, Williams, Wood and Mr. Speaker - 52.

Excused: Representatives Condotta and Tom - 2.

Representative Bailey moved the adoption of amendment (514) to amendment (486):

On page 6 of the striking amendment, after line 30, insert the following:

"**NEW SECTION. Sec. 8.** A new section is added to chapter 29A.44 RCW to read as follows:

Any person desiring to vote at the polls at any primary or election is required to provide identification to the election officer before signing the poll book. The identification required in this section can be satisfied by providing a voter's registration card, or any valid government-issued photo identification, including but not limited to a driver's license, state identification card, passport, tribal identification card, or military identification card. Any individual who desires to vote in person but cannot provide identification as required in this section shall be issued a provisional ballot."

Renumber the sections consecutively and correct any internal references accordingly.

Representatives Bailey, Sump, Nixon, Schindler, Armstrong, Orcutt and Ericksen spoke in favor of the adoption of the amendment to the amendment.

Representatives Hudgins, Pettigrew and Dickerson spoke against the adoption of the amendment to the amendment.

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

The Speaker stated the question before the House to be adoption of amendment (514) to amendment (486) to Engrossed Substitute Senate Bill No. 5499.

ROLL CALL

The Clerk called the roll on the adoption of amendment (514) to amendment (486) to Engrossed Substitute Senate Bill No. 5499, and the amendment was not adopted by the following vote: Yeas - 46, Nays - 50, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Ericks, Erickson, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kagi, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Springer, Strow, Sump, Takko, Talcott, Wallace, Walsh and Woods - 46.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Sullivan, B., Sullivan, P., Upthegrove, Williams, Wood and Mr. Speaker - 50.

Excused: Representatives Condotta and Tom - 2.

Representative Hunt moved the adoption of amendment (523) to amendment (486):

On page 8 of the striking amendment, line 24, after "section" strike "7" and insert "8"

Representatives Hunt and Nixon spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Hunt moved the adoption of amendment (522) to amendment (486):

On page 8 of the striking amendment, line 24, after "section" strike "7" and insert "8"

Representatives Hunt and Nixon spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Schindler moved the adoption of amendment (513) to amendment (486):

On page 8 of the striking amendment, beginning on line 26, strike all of section 10 and insert the following:

"NEW SECTION. Sec. 10. A new section is added to chapter 29A.60 RCW to read as follows:

(1) The county auditor shall prepare, make publicly available at the auditor's office or on the auditor's web site, and submit at the time of certification an election reconciliation report that discloses the following information:

(a) The number of ballots counted;

(b) The number of poll ballots issued, the number received, the number counted and the number rejected;

(c) The number of provisional ballots issued, the number received, the number counted and the number rejected;

(d) The number of absentee ballots issued, the number received, the number counted and the number rejected;

(e) The number of federal write-in ballots issued, the number received, the number counted and the number rejected; and

(f) The number of out-of-state, overseas, and service ballots issued, the number received, the number counted and the number rejected.

(2) The county auditor shall prepare and make publicly available at the auditor's office or on the auditor's web site within thirty days of certification an election reconciliation report by precinct that discloses the following information:

(a) The total number of voters credited with voting a counted ballot;

(b) The number of poll voters credited with voting a counted ballot;

(c) The number of provisional voters credited with voting a counted ballot;

(d) The number of absentee voters credited with voting a counted ballot;

(e) The number of federal write-in voters credited with voting a counted ballot;

(f) The number of out-of-state, overseas, and service voters credited with voting a counted ballot; and

(g) Any other information the auditor deems necessary to reconcile the number of ballots counted with the number of voters credited with voting.

The county auditor shall report by precinct any variance between the number of ballots and the number of voters. For districts located in more than one county and for statewide elections, these numbers shall be forwarded to the secretary of state. If the sum of the number of ballots without voters and the number of voters without ballots exceeds the winning margin in an election or primary, the election or primary as to that position is void. No certificate of election may be issued. A revote for that position must be held within sixty days."

On page 13 of the striking amendment, line 2, after "results" insert "contingent upon the requirements of section 10(2) of this act"

Representatives Schindler, Nixon and Armstrong spoke in favor of the adoption of the amendment to the amendment.

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

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

The Speaker stated the question before the House to be adoption of amendment (513) to amendment (486) to Engrossed Substitute Senate Bill No. 5499.

ROLL CALL

The Clerk called the roll on the adoption of amendment (513) to amendment (486) to Engrossed Substitute Senate Bill No. 5499, and the amendment was not adopted by the following vote: Yeas - 46, Nays - 50, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Ericks, Erickson, Fromhold, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kilmer, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sullivan, P., Sump, Talcott, Walsh and Woods - 46.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Flannigan, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 50.

Excused: Representatives Condotta and Tom - 2.

Representative DeBolt moved the adoption of amendment (515) to amendment (486):

On page 18, line 18 of the striking amendment, after "of a" strike all material through "RCW 9A.20.021" on line 20 and insert "~~((gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021))~~ class C felony"

Representatives DeBolt and Hunt spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Hinkle moved the adoption of amendment (516) to amendment (486):

On page 18 of the striking amendment, after line 23, insert the following:

"**NEW SECTION. Sec. 24.** The secretary of state shall study the feasibility of requiring that the names of the top two vote-getters in primary elections of justices of the state supreme court, judges of the courts of appeals, superior courts, and district courts, and the superintendent of public instruction shall appear on the general election ballot. The study shall include a survey of how many times a judicial candidate and a candidate for superintendent of public instruction have appeared without opposition on the general election ballot from 1985 to present; the number of voters voting for these races in the primary election as opposed to voting for the same races in the general election; and if the differences in the numbers of voters voting at the primary and voting at the general election may have resulted in a different election result. The study shall also include a financial analysis of the proposed changes. The secretary of state shall report the results of the study to the appropriate committees of the legislature no later than January 31, 2006."

Re-number the sections consecutively and correct any internal references accordingly.

Representatives Hinkle and Haigh spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Amendment (486) as amended was adopted.

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

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

Representative Nixon, Clements, Armstrong, Orcutt and Bailey spoke against the passage of the bill.

The Speaker stated the question before the House to be

the final passage of Engrossed Substitute Senate Bill No. 5499 as amended by the House.

MOTION

On motion of Representative Clements, Representative Dunn was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5499 as amended by the House, and the bill passed the House by the following vote: Yeas - 56, Nays - 39, Absent - 0, Excused - 3.

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

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Cox, Crouse, Curtis, Darneille, DeBolt, Ericksen, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Walsh and Woods - 39.

Excused: Representatives Condotta, Dunn and Tom - 3.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5499, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on ENGROSSED SUBSTITUTE SENATE BILL NO. 5499.

LARRY HALER, 8th District

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

With the consent of the House, the Rules Committee was relieved of the following bills which were placed on the Second Reading calendar:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5060,
SUBSTITUTE SENATE BILL NO. 5611,

There being no objection, the House adjourned until 10:00 a.m., April 15, 2005, the 96th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

1100-S		
Messages	.....	31
1146		
Messages	.....	4
1180		
Messages	.....	31
1183		
Messages	.....	31
1210-S		
Messages	.....	4
1261		
Messages	.....	30
1294		
Messages	.....	1
1310-S		
Messages	.....	30
1346-S2		
Messages	.....	4
1560-S		
Messages	.....	30
1612		
Messages	.....	1
2064		
Messages	.....	1
2321		
Introduction & 1st Reading	.....	31
2322		
Introduction & 1st Reading	.....	31
2323		
Introduction & 1st Reading	.....	31
2324		
Introduction & 1st Reading	.....	31
2325		
Introduction & 1st Reading	.....	31
2326		
Introduction & 1st Reading	.....	31, 32
Other Action	.....	31
4023		
Introduction & 1st Reading	.....	31
4411		
Introduction & 1st Reading	.....	31
Other Action	.....	31, 32
5060-S		
Other Action	.....	50
5089		
Second Reading	.....	13
Third Reading Final Passage	.....	13
5094		
Second Reading Amendment	.....	12
Third Reading Final Passage	.....	12
5121-S		
Second Reading Amendment	.....	4
Third Reading Final Passage	.....	6
5196		
Second Reading Amendment	.....	29
Third Reading Final Passage	.....	30
Colloquy	.....	30
5290-S		
Second Reading Amendment	.....	3
Third Reading Final Passage	.....	4
5309-S		
Second Reading	.....	1
Third Reading Final Passage	.....	2
5396-S		
Second Reading Amendment	.....	15
Third Reading Final Passage	.....	17

5415-S	Second Reading Amendment	4
	Third Reading Final Passage	4
5499-S	Second Reading Amendment	42
	Third Reading Final Passage	50
5501	Second Reading	1
	Third Reading Final Passage	1
5602-S	Second Reading Amendment	17
	Third Reading Final Passage	29
5610	Second Reading Amendment	2
5610-S	Third Reading Final Passage	3
5611-S	Other Action	50
5615-S	Introduction & 1st Reading	31
5623-S	Second Reading	4
	Third Reading Final Passage	4
5743-S	Second Reading Amendment	32
	Third Reading Final Passage	41
5763-S2	Second Reading Amendment	6
	Third Reading Final Passage	12
5850-S	Second Reading Amendment	13
	Third Reading Final Passage	14
5962	Second Reading Amendment	3
	Third Reading Final Passage	3
5983-S	Second Reading Amendment	12
	Third Reading Final Passage	13
5992-S	Second Reading Amendment	14
	Third Reading Final Passage	15
HOUSE OF REPRESENTATIVES (Representative Lovick presiding)		
	Statement for the Journal: Representative Haler	50
	Statement for the Journal: Representative Hankins	3
	Statement for the Journal: Representative Jarrett	12
	Statement for the Journal: Representative Sells	32
SPEAKER OF THE HOUSE (Representative Lovick presiding)		
	Speaker's Ruling: Decorum of Debate	17, 38