

SIXTY-FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, March 12, 2007

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Pflug, Rasmussen, Roach and Shin.

The Sergeant at Arms Color Guard consisting of Pages Jose Carmona and Serena Eschels, presented the Colors. Reverend Lonnie Mitchell, Sr. of the Bethel African Methodist Episcopal Church offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

March 10, 2007

MR. PRESIDENT:

The House has passed the following bills:  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1035,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1303,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1401,  
 HOUSE BILL NO. 1418,  
 SUBSTITUTE HOUSE BILL NO. 1492,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1569,  
 SUBSTITUTE HOUSE BILL NO. 1588,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1656,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1727,  
 SUBSTITUTE HOUSE BILL NO. 1805,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1811,  
 SUBSTITUTE HOUSE BILL NO. 1826,  
 ENGROSSED HOUSE BILL NO. 1902,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2016,  
 SUBSTITUTE HOUSE BILL NO. 2115,  
 SUBSTITUTE HOUSE BILL NO. 2335,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2007

MR. PRESIDENT:

The House has passed the following bills:  
 SUBSTITUTE HOUSE BILL NO. 1508,  
 SUBSTITUTE HOUSE BILL NO. 2031,  
 SUBSTITUTE HOUSE BILL NO. 2209,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2220,  
 HOUSE BILL NO. 2236,  
 SUBSTITUTE HOUSE BILL NO. 2275,  
 HOUSE JOINT MEMORIAL NO. 4001,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2007

MR. PRESIDENT:

The House has passed the following bills:  
 SUBSTITUTE HOUSE BILL NO. 1975,  
 HOUSE BILL NO. 1994,  
 HOUSE BILL NO. 2004,  
 HOUSE BILL NO. 2009,  
 HOUSE BILL NO. 2017,  
 HOUSE BILL NO. 2048,  
 HOUSE BILL NO. 2135,  
 SUBSTITUTE HOUSE BILL NO. 2304,  
 SUBSTITUTE HOUSE BILL NO. 2317,  
 HOUSE CONCURRENT RESOLUTION NO. 4404,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2007

MR. PRESIDENT:

The House has passed the following bills:  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1211,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1359,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1993,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2292,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2358,  
 ENGROSSED HOUSE BILL NO. 2373,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1055 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Hudgins, B. Sullivan, Morris, Dunshee and Chase)

AN ACT Relating to defining alternative motor fuels; amending RCW 19.112.010, 19.112.120, 82.04.4334, 82.08.955, and 82.12.955; and adding a new section to chapter 19.112 RCW.

Referred to Committee on Water, Energy & Telecommunications.

E2SHB 1103 by House Committee on Appropriations (originally sponsored by Representatives Campbell, Green, Kenney, Hudgins, Appleton, Schual-Berke and Cody)

AN ACT Relating to health professions; amending RCW 18.130.050, 18.130.060, 18.130.080, 18.130.090, 18.130.170, 18.130.172, 18.130.310, 70.41.210, 43.70.320, 18.71.017, 18.57.005, and 18.22.015; reenacting and amending RCW 18.130.160; adding new sections to chapter 18.130 RCW; adding a new section to chapter 42.52 RCW;

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creating new sections; prescribing penalties; providing an effective date; and declaring an emergency.

66.28.200; and amending RCW 66.24.400, 66.28.200, and 66.28.220.

Referred to Committee on Health & Long-Term Care.

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

ESHB 1251 by House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Morrell, Haler, O'Brien, Skinner, Lantz, Hinkle, Upthegrove, Takko, Moeller, Wallace, Crouse, Campbell, Kristiansen, Wood, Pearson, Ross, Fromhold, McCoy, Williams, Kretz, Hurst, Green, Kenney, VanDeWege, Haigh, McCune, Grant, Darneille, Simpson, Dunn and Rolfes)

E2SHB 1374 by House Committee on Appropriations (originally sponsored by Representatives Upthegrove, Sump, Hunt, Appleton, Chase, Kenney, Simpson, Roberts, Dickerson, Conway and Springer)

AN ACT Relating to protecting and recovering property owned by utilities, telecommunications companies, railroads, state agencies, political subdivisions of the state, construction firms, and other parties; reenacting and amending RCW 9.94A.533; adding new sections to chapter 9.94A RCW; adding a new chapter to Title 19 RCW; creating a new section; repealing RCW 9.91.110; and prescribing penalties.

AN ACT Relating to the Puget Sound partnership; amending RCW 90.71.010, 90.71.060, 90.71.100, 43.17.010, 43.17.020, 42.17.2401, 77.85.090, 70.220.040, 43.155.070, 70.146.070, 89.08.520, 70.105D.070, 79A.15.040, 90.88.005, 90.88.020, 90.88.030, 90.88.901, 90.88.902, 90.48.260, 79A.60.520, 79A.60.510, 79.105.500, 77.60.130, 70.146.070, 70.118.090, 43.21J.030, 43.21J.040, and 28B.30.632; reenacting and amending RCW 79.105.150 and 77.85.130; adding new sections to chapter 90.71 RCW; adding a new section to chapter 41.06 RCW; adding a new section to chapter 43.155 RCW; adding a new section to chapter 70.146 RCW; adding a new section to chapter 89.08 RCW; adding a new section to chapter 70.105D RCW; adding a new section to chapter 79.105 RCW; adding a new section to chapter 79A.15 RCW; adding a new section to chapter 77.85 RCW; adding a new section to chapter 70.118 RCW; recodifying RCW 90.71.100; decodifying RCW 90.71.902 and 90.71.903; and repealing RCW 90.71.005, 90.71.015, 90.71.020, 90.71.030, 90.71.040, 90.71.050, 90.71.070, 90.71.080, 90.71.900, and 90.71.901.

Referred to Committee on Judiciary.

ESHB 1260 by House Committee on Transportation (originally sponsored by Representatives Conway, Crouse, Fromhold, Kenney, Ericks, Ormsby, Simpson and Moeller)

AN ACT Relating to contribution rates in the Washington state patrol retirement system; amending RCW 41.45.0631; and creating a new section.

Referred to Committee on Water, Energy & Telecommunications.

Referred to Committee on Transportation.

HB 1285 by Representatives Anderson, Fromhold, Priest, Quall and Haler

EHB 1413 by Representatives Eddy, Simpson and Curtis

AN ACT Relating to recodifying the basic education program; amending RCW 28A.150.200, 28A.150.220, 28A.150.250, 28A.150.260, 28A.150.290, 28A.150.360, and 28A.150.410; adding a new section to chapter 28A.160 RCW; adding a new chapter to Title 28A RCW; recodifying RCW 28A.150.200, 28A.150.210, 28A.150.220, 28A.150.250, 28A.150.260, 28A.150.270, 28A.150.290, 28A.150.410, 28A.150.275, 28A.150.280, 28A.150.350, 28A.150.360, 28A.150.370, 28A.150.420, and 28A.150.280; and repealing RCW 28A.150.100.

AN ACT Relating to changing the definition of floodway in the shoreline management act; and amending RCW 90.58.030.

Referred to Committee on Water, Energy & Telecommunications.

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

SHB 1422 by House Committee on Human Services (originally sponsored by Representatives Roberts, Dickerson, Appleton, Walsh, Haler, Darneille, Lovick, Pettigrew, Quall, Hasegawa, Sells, Goodman, Eddy, Green, O'Brien, Chase, Kagi, Ormsby and Santos)

SHB 1322 by House Committee on Judiciary (originally sponsored by Representatives McCoy, Grant, Sells, Cody, Conway, Schual-Berke, Roberts, Pettigrew, Lantz, Kagi, Moeller, Chase, Green, Kenney, Simpson, Darneille, Dickerson, Hankins, Santos, Ormsby and Flannigan)

AN ACT Relating to children and families of incarcerated parents; adding a new section to chapter 72.09 RCW; adding a new section to chapter 74.04 RCW; adding a new section to chapter 43.215 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 43.63A RCW; and creating new sections.

AN ACT Relating to the definition of disability in the Washington law against discrimination; amending RCW 49.60.040; and creating a new section.

Referred to Committee on Appropriations.

Referred to Committee on Judiciary.

E2SHB 1461 by House Committee on Appropriations (originally sponsored by Representatives Morrell, Miloschia, O'Brien, Ericks, Hunt, Sells, Green, Flannigan, Williams, Kenney, Appleton, Ormsby, Quall, Haigh, Hasegawa and Lantz)

HB 1349 by Representatives Condotta and Wood

AN ACT Relating to sale by spirit, beer, and wine licensees of malt liquor in containers that are capable of holding four gallons or more and are registered in accordance with RCW

AN ACT Relating to manufactured/mobile home community registrations and dispute resolution; adding a new section to chapter 34.12 RCW; adding a new chapter to Title 59 RCW; creating a new section; and prescribing penalties.

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Referred to Committee on Consumer Protection & Housing.

SHB 1590 by House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne, Curtis, Eddy, Pearson, Springer, Linville, Roach, Jarrett, Priest, Clibborn, Ericks, Chandler, Schual-Berke, Dunshee, Upthegrove, Sells, Miloscia, Hurst, Williams, Newhouse, Simpson and Kenney)

AN ACT Relating to administration of the courts of limited jurisdiction; amending RCW 3.50.003, 3.50.005, 3.50.020, 3.50.805, and 39.34.180; adding a new section to chapter 3.50 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Judiciary.

2SHB 1636 by House Committee on Appropriations (originally sponsored by Representatives Simpson, B. Sullivan, Dunshee, Upthegrove, McCoy, Dickerson, P. Sullivan, Morrell, Sells and Rolfes)

AN ACT Relating to the creation of a regional transfer of development rights program; adding a new chapter to Title 43 RCW; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 1669 by House Committee on Judiciary (originally sponsored by Representatives Strow, Ericks, O'Brien, Rodne, Kirby, Haler, Eddy, Hinkle and Lantz)

AN ACT Relating to district and municipal court preconviction and postconviction probation and supervision services for persons charged with or convicted of misdemeanor crimes; and adding new sections to chapter 4.24 RCW.

Referred to Committee on Judiciary.

E2SHB 1705 by House Committee on Finance (originally sponsored by Representatives Barlow, Ormsby, Kenney and Wood)

AN ACT Relating to the creation of health sciences and services authorities; reenacting and amending RCW 42.56.270 and 42.56.270; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 35 RCW; creating a new section; providing an effective date; and providing expiration dates.

Referred to Committee on Ways & Means.

EHB 1743 by Representatives Kretz, B. Sullivan, Sump, Upthegrove and Linville

AN ACT Relating to noxious weed control boards; amending RCW 17.10.010, 17.10.020, 17.10.030, 17.10.050, 17.10.060, 17.10.074, 17.10.080, 17.10.190, 17.10.205, 17.10.240, 17.10.250, and 17.10.280; and repealing RCW 17.10.040 and 17.10.890.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 1837 by House Committee on Health Care & Wellness (originally sponsored by Representatives Newhouse, Cody and Schual-Berke)

AN ACT Relating to directing the department of health to develop guidelines for the safety of individuals who rely upon stretchers and personal mobility devices; amending RCW 18.73.180; and creating a new section.

Referred to Committee on Health & Long-Term Care.

EHB 1956 by Representatives Pettigrew, Miloscia, Santos, Sells, Ormsby and Hasegawa

AN ACT Relating to discrimination based on lawful source of income; reenacting and amending RCW 49.60.250; adding a new section to chapter 49.60 RCW; and prescribing penalties.

Referred to Committee on Consumer Protection & Housing.

2SHB 1992 by House Committee on Finance (originally sponsored by Representatives Santos, Kenney and Hasegawa)

AN ACT Relating to community preservation and development authorities; adding a new chapter to Title 43 RCW; and creating a new section.

Referred to Committee on Economic Development, Trade & Management.

SHB 2010 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Haigh, Hunt, Ericks, Conway, Haler, Green, Hasegawa, Appleton, Campbell, Sells, Kenney, VanDeWege, Cody, Hurst, McDermott, Simpson and Ormsby)

AN ACT Relating to bidder responsibility; amending RCW 39.04.010 and 39.04.155; adding a new section to chapter 39.04 RCW; and adding a new section to chapter 39.06 RCW.

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

E2SHB 2053 by House Committee on Finance (originally sponsored by Representatives Goodman, Springer, O'Brien, Dunshee, Eddy, Blake, Lovick, Upthegrove, Green, Simpson and Hurst)

AN ACT Relating to improving the availability of motor vehicle fuel in the event of an electric power outage or interruption in electric service; adding a new section to chapter 82.04 RCW; providing an effective date; and providing an expiration date.

Referred to Committee on Transportation.

HB 2079 by Representatives McDermott, Ormsby, Williams, Simpson and Hunt

AN ACT Relating to use of agency shop fees; amending RCW 42.17.760; and declaring an emergency.

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

HB 2134 by Representatives VanDeWege, Linville, Grant, Walsh, Kenney, Curtis, Moeller, Conway, Fromhold, Seaquist, P. Sullivan, Hinkle, Ericks, Upthegrove, Schual-Berke, Hurst, Sells, Lovick, Williams, Campbell, Chase, Quall,

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Simpson, Hasegawa, Santos, Goodman, Haler, Ormsby and Kelley

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AN ACT Relating to port district fire fighter membership in the law enforcement officers' and fire fighters' retirement system plan 2; amending RCW 41.26.030 and 41.26.030; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

HB 2146 by Representatives Seaquist, Rolfes, Lantz, Appleton, Simpson and Kelley

AN ACT Relating to sales and use taxes on toll projects; amending RCW 47.46.060; and adding a new section to chapter 82.32 RCW.

Referred to Committee on Ways & Means.

ESHB 2268 by House Committee on Judiciary (originally sponsored by Representatives Lantz, Lovick, Strow, Kagi, Eddy, Ericks, Green, B. Sullivan, McCoy, Moeller, Schual-Berke, Kenney, Hunt, Kelley and Ormsby)

AN ACT Relating to the possession of dangerous weapons on school facilities; amending RCW 9.41.280; and prescribing penalties.

Referred to Committee on Judiciary.

SHB 2325 by House Committee on Capital Budget (originally sponsored by Representatives Kenney, Pettigrew, Flannigan, Haler, Hankins, Skinner, Kirby, Blake, Ericks, Wood, Upthegrove, Ormsby, P. Sullivan, Barlow, Chase, Quall, Hasegawa, Conway, McIntire, Grant, Morris, McDermott, Sells, Kessler and Santos)

AN ACT Relating to creating the community development fund; and adding a new chapter to Title 43 RCW.

Referred to Committee on Ways & Means.

SHB 2361 by House Committee on Commerce & Labor (originally sponsored by Representative Conway)

AN ACT Relating to collective bargaining for certain employees of institutions of higher education and related boards; and adding a new section to chapter 41.56 RCW.

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

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed Second Substitute House Bill No. 1705 and House Bill No. 2146 which were referred to the Committee on Ways & Means.

#### MOTION

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

#### MOTION

Senator Spanel moved adoption of the following resolution:

By Senators Spanel, Haugen and Stevens

WHEREAS, Every April the tulips are in bloom, celebrating the beginning of spring; and

WHEREAS, The beautiful Skagit Valley is the Northwest's tulip capital and the number 1 producer of tulip bulbs in North America; and

WHEREAS, The Skagit Valley Tulip Festival kicks off the festival season in Washington; and

WHEREAS, Nearly half a million people visited the Skagit Valley Tulip Festival last year, participating in the joy and excitement of the event and contributing to the economy of the Skagit Valley; and

WHEREAS, This year's 24th annual festival will run from April 1st through April 30th, focusing on the communities of Sedro-Woolley, Burlington, Anacortes, La Conner, Mount Vernon, Concrete, and Conway; and

WHEREAS, Visitors will be greeted by more than 750 acres of tulips reflecting all the vibrant colors of the rainbow, by the fullness of life in the valley, and by its wonderful people; and

WHEREAS, This year's Tulip Festival Ambassadors, William Hovenden and Bethany Sybrandy, will ably and personably perform their responsibilities as representatives of the festival; and

WHEREAS, Highlights of the event include the Kiwanis Club's 19th Annual Salmon Barbeque, the 27th Annual Tulip Pedal bike ride, the Anacortes Quilt Walk, the Downtown Mount Vernon Street Fair, the 2nd Annual Hospice Tour De Fleur, and much more;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate salute all the communities of the Skagit Valley, their Chambers of Commerce, the Skagit Valley Tulip Festival Ambassadors, and the Tulip Festival Committee; and

BE IT FURTHER RESOLVED, That the Senate commend the community leaders and corporate sponsors for the success of this important event and encourage citizens from across Washington to take the time to enjoy this spectacular display; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Skagit Valley Tulip Festival Executive Director Cindy Verge and the Tulip Festival Ambassadors.

Senators Spanel, Haugen and Stevens spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8650.

The motion by Senator Spanel carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced William Hovenden and Bethany Sybrandy, 2007 Tulip Ambassadors, who were seated at the rostrum.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Tulip Ambassador families who were present in the gallery.

#### MOTION

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

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

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MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 12, 2007."

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

The motion by Senator Eide carried and debate was limited through March 12, 2007.

MOTION

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

SECOND READING

SENATE BILL NO. 5720, by Senator Marr

Conforming legal notice broadcast requirements to current practice.

MOTIONS

On motion of Senator Marr, Substitute Senate Bill No. 5720 was substituted for Senate Bill No. 5720 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 5720 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senators Holmquist, Pflug and Roach were excused.

MOTION

On motion of Senator Regala, Senators Rasmussen and Shin were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5720.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5720 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Absent: Senator Morton - 1

Excused: Senators Pflug, Rasmussen, Roach and Shin - 4

SUBSTITUTE SENATE BILL NO. 5720, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator McCaslin, Senator Morton was excused.

SECOND READING

SENATE BILL NO. 5011, by Senators Kohl-Welles, Parlette, Keiser and Rasmussen

Removing the expiration date on the 2006 beer and wine distribution bill.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 5011 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5011.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5011 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Rasmussen, Roach and Shin - 3

SENATE BILL NO. 5011, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5053, by Senators Keiser, Kohl-Welles and Kline

Creating the office of the ombudsman for workers of industrial insurance self-insured employers.

MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5053 was substituted for Senate Bill No. 5053 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5053 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senators Keiser and Kohl-Welles spoke in favor of passage of the bill.

Senator Clements spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5053.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5053 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 16; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Rockefeller, Spanel, Tom and Weinstein - 31

Voting nay: Senators Carrell, Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Regala, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 16

Excused: Senators Roach and Shin - 2

SUBSTITUTE SENATE BILL NO. 5053, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5607, by Senator Pridemore

Modifying provisions regarding the leasehold excise taxation of historical property owned by the United States government.

The measure was read the second time.

## MOTION

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 5607 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5607.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5607 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Roach - 1

SENATE BILL NO. 5607, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5533, by Senators Pflug, Hargrove, Kline, Swecker, Delvin, Stevens, Holmquist, Parlette and Hewitt

Revising procedures for individuals who are mentally ill and engaged in acts constituting criminal behavior.

## MOTIONS

On motion of Senator Eide, Substitute Senate Bill No. 5533 was substituted for Senate Bill No. 5533 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5533 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5533.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5533 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE SENATE BILL NO. 5533, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5122, by Senators Rockefeller and Swecker

Preserving regulatory assistance provisions.

## MOTIONS

On motion of Senator Rockefeller, Second Substitute Senate Bill No. 5122 was substituted for Senate Bill No. 5122 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Rockefeller, the rules were suspended, Second Substitute Senate Bill No. 5122 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5122.

## ROLL CALL

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The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5122 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SECOND SUBSTITUTE SENATE BILL NO. 5122, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5572, by Senators Murray and Weinstein

Providing excise tax relief for certain limited purpose public corporations, commissions, and authorities.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 5572 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5572.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5572 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 5572, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5733, by Senators Stevens and Jacobsen

Regarding hydraulic project permit approval for projects intended to reduce or eliminate damage from floods.

## MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 5733 was substituted for Senate Bill No. 5733 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 5733 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5733.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5733 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Fraser - 1

SUBSTITUTE SENATE BILL NO. 5733, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5738, by Senators Oemig and Swecker

Modifying absentee ballot and related election provisions.

The measure was read the second time.

## MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.40.110 and 2006 c 207 s 4 and 2006 c 206 s 6 are each reenacted and amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin 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. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the return envelope is

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the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. 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.

(4) 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.

**Sec. 2.** RCW 29A.44.090 and 2003 c 111 s 1109 are each amended to read as follows:

~~(A registered voter shall not be allowed to vote in the precinct in which he or she is registered at any election or primary for which that voter has cast an absentee ballot. A registered voter who has requested an absentee ballot for a primary or special or general election but chooses to vote at the voter's precinct polling place in that primary or election shall cast a provisional ballot. The canvassing board shall not count the ballot if it finds that the voter has also voted by absentee ballot in that primary or election.)~~ If a registered voter who was issued an absentee or mail ballot requests to vote at a polling place, the precinct election officer shall attempt to confirm whether the voter has already returned an absentee or mail ballot. Confirmation may be achieved by accessing the county voter registration system by electronic, telephonic, or other means.

(1) If the precinct election officer is able to confirm that the voter has not already returned an absentee or mail ballot, the voter may be issued a regular ballot. In order to prevent multiple voting, the voter must be immediately credited or flagged in the voter registration system as having voted. If an absentee or mail ballot is subsequently returned, the canvassing board may not count the absentee or mail ballot.

(2) If the precinct election officer is unable to confirm whether the voter has already returned a ballot, the voter must be issued a provisional ballot. If the voter has already returned an absentee or mail ballot, the canvassing board may not count the provisional ballot. If the canvassing board counts the provisional ballot and an absentee or mail ballot is subsequently returned, the canvassing board may not count the absentee or mail ballot.

**Sec. 3.** RCW 29A.60.165 and 2006 c 209 s 4 and 2006 c 208 s 1 are each reenacted and amended to read as follows:

(1) If the voter neglects to sign the (outside envelope of) oath on an absentee or provisional ballot envelope, signs the oath with a mark and fails to have two witnesses attest to the signature, or signs the ballot envelope but the signature on the envelope does not match the signature on the voter registration record, the auditor shall notify the voter by first class mail (and advise the voter) of the correct procedures for (completing the unsigned affidavit) curing the signature. If ((the)) such an absentee ballot is not received within three business days of the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded by at least three business days before the final meeting of the canvassing board, ((then)) the auditor shall attempt to notify the voter by telephone, using information in the voter registration record ((information)).

((In order for the ballot to be counted)) (2) If the voter neglects to sign the oath on an absentee or provisional ballot envelope, or signs the oath with a mark and fails to have two witnesses attest to the signature, 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

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(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 first class mail, enclosing a copy of the envelope affidavit, and advise the voter of the correct procedures for updating his or her signature on the voter registration file. If the absentee or provisional ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted)) (3) If the signature on the oath of an absentee or provisional ballot envelope does not match the signature on the voter registration record, the voter must ((either)):

((1)) (a) Appear in person and sign a new registration form no later than the day before ((the)) certification of the primary or election. The updated signature provided on the new registration form becomes the signature on the voter registration record for the current election and future elections; ((or

((1)) (b) 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. The voter may enclose with the affidavit)) provide a photocopy of a valid government or tribal issued identification document that includes the voter's current signature. ((If)) The signatures on ((the copy of)) the affidavit ((does not match the signature on file or the signature on the copy of)), the identification ((document, the voter must appear in person and sign a new registration form)), and the ballot envelope must all match. The voter must return the signed affidavit and the identification to the auditor no later than the day before ((the)) certification of the primary or election ((in order for the ballot to be counted)). The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections; or

(c) Sign a copy of the affidavit provided by the auditor in front of two witnesses who are registered voters and who attest to the signature. The signature on the affidavit must match the signature on the ballot envelope. The voter must return the signed affidavit to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections.

((1)) (4) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration ((file)) record 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. ((1)) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration ((file)) record 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)) (5) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

((4)) (6) 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 42.56 RCW and may be disclosed to interested parties on written request."

Senators Oemig and Benton spoke in favor of adoption of the striking amendment.



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The President declared the question before the Senate to be the adoption of the striking amendment by Senator Oemig and others to Senate Bill No. 5738.

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

#### MOTION

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

On page 1, line 1 of the title, after "mail;" strike the remainder of the title and insert "amending RCW 29A.44.090; and reenacting and amending RCW 29A.40.110 and 29A.60.165."

#### MOTION

On motion of Senator Oemig, the rules were suspended, Engrossed Senate Bill No. 5738 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5738.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5738 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SENATE BILL NO. 5738, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5839, by Senators Benton, Stevens and Hargrove

Revising provisions relating to nonmandatory reporting of child abuse or neglect. Revised for 1st Substitute: Revising provisions relating to false reporting of child abuse or neglect.

#### MOTIONS

On motion of Senator Benton, Substitute Senate Bill No. 5839 was substituted for Senate Bill No. 5839 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Benton, the rules were suspended, Substitute Senate Bill No. 5839 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5839.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5839 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE SENATE BILL NO. 5839, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### MOTION

Senator Eide moved that the motion to refer Second Substitute House Bill No. 1636 to the Committee on Government Operations and Elections be reconsidered.

The President declared the question before the Senate to be the motion by Senator Eide to reconsider the motion to refer Second Substitute House Bill No. 1636 to the Committee on Government Operations and Elections.

The motion by Senator Eide carried by voice vote.

#### MOTION

Senator Eide moved that Second Substitute House Bill No. 1636 be referred to the Committee on Natural Resources, Ocean & Recreation.

The President declared the question before the Senate to be the motion by Senator Eide to refer Second Substitute House Bill No. 1636 to the Committee on Natural Resources, Ocean & Recreation.

The motion by Senator Eide carried by voice vote.

#### MOTION

At 10:58 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:08 p.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

#### REPORTS OF STANDING COMMITTEES

March 9, 2007

SCR 8407 Prime Sponsor, Kohl-Welles: Addressing liquor laws. Reported by Committee on Labor, Commerce, Research & Development

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MAJORITY recommendation: That Substitute Senate Bill No. 8407 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Franklin, Holmquist, Murray and Prentice

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, the measure listed on the Standing Committee report was referred to the committee as designated.

## MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 20, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

HOLLY MICHAELS, appointed February 16, 2007, for the term ending December 5, 2010, as Member of the Eastern State Hospital Advisory Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services &amp; Corrections.

## MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

## MOTION

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

## SECOND READING

SENATE BILL NO. 5788, by Senators Spanel, Brandland and Kohl-Welles

Requiring the licensing of home inspectors.

## MOTION

On motion of Senator Spanel, Substitute Senate Bill No. 5788 was substituted for Senate Bill No. 5788 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the home inspector licensing board.

(2) "Classroom education" means training in observing and identifying defects in structural components, foundations, roof coverings, insulation and ventilation, exterior and interior components; wood destroying organism inspections; and plumbing, heating, cooling, and electrical systems. It does not include online or video training.

(3) "Component" means a readily accessible and observable aspect of a system, such as a floor or wall, but not individual pieces such as boards or nails where many pieces make up a system.

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

(5) "Director" means the director of the department of licensing.

(6) "Home inspection" means a visual analysis for the purposes of providing a professional opinion of the condition of a building and its attached carports and attached garages, any reasonably accessible installed components and the operation of the building systems, including the controls normally operated by the owner, for the following components of a residential building of four units or less: Heating system, electrical system, cooling system, plumbing system, structural components, foundation, roof covering, exterior and interior components, and site aspects as they affect the building. "Home inspection" also means an inspection for wood destroying organisms.

(7) "Home inspection report" or "inspection report" means a written report prepared and issued after a home inspection. The inspector shall include the following in the report:

(a) On those systems and components inspected which, in the professional opinion of the inspector, are significantly deficient or near the end of its service life;

(b) A reason why, if not self-evident, the system or component is significantly deficient or near the end of its service life;

(c) The home inspector's recommendations to correct or monitor the reported deficiency;

(d) Whether or not there is damage from wood destroying organisms; and

(e) Any systems and components designated for inspection in the standards developed by the board under section 5 of this act.

(8) "Home inspector" means any person licensed under this chapter as a home inspector and who engages in the business of performing home inspections and writing home inspection reports.

(9) "Readily accessible" means areas typically and routinely visible by normal access.

(10) "Wood destroying organism" means insects or fungi that consume, excavate, develop in, or otherwise modify the integrity of wood or wood products. "Wood destroying organism" includes but is not limited to carpenter ants, moisture ants, subterranean termites, dampwood termites, beetles in the family Anobiidae, and wood decay fungi, known as wood rot.

(11) "Wood destroying organism inspection" means the inspection of a building for the presence of wood destroying organisms, their damage, or conducive conditions leading to the development or establishment of the organism.

NEW SECTION. Sec. 2. LICENSURE REQUIRED. (1) Beginning September 1, 2008, a person shall not engage in or conduct, or advertise or hold himself or herself out as engaging in or conducting the business of or acting in the capacity of a home inspector within this state without first obtaining a license as provided in this chapter.

(2) On July 1, 2008, any person who has been actively engaged in the business of conducting complete home inspections and has been licensed as a structural pest inspector by the state department of agriculture for at least two years and who has conducted at least one hundred complete home inspections may apply to the board for initial licensure without meeting the examination or instruction requirements of this chapter.

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(3) This chapter does not affect the practice of architecture or engineering or prevent an architect or an engineer from offering to provide or providing home inspection services.

**NEW SECTION. Sec. 3. HOME INSPECTOR LICENSING BOARD.** (1) The state home inspector licensing board is created. The board consists of eight members appointed by the director, who shall advise the director concerning the administration of this chapter. Of the appointments to this board, five shall be actively engaged as home inspectors immediately prior to their appointment to the board, one shall be a licensed real estate broker, one shall be currently teaching in a home inspector certificate program, and one shall be a member of the general public with no family or business connection with the home inspector business or practice. Insofar as possible, the composition of the appointed home inspector members of the board shall be generally representative of the occupational distribution of home inspectors licensed under this chapter.

(2) A home inspector must have the following qualifications to be appointed to the board:

(a) Actively engaged as a home inspector in the state of Washington for five years;

(b) Licensed as a home inspector under this chapter; and

(c) Performed three hundred fifty home inspections in the state of Washington.

(3) Members of the board are appointed for three-year terms. Terms must be staggered so that not more than two appointments are scheduled to be made in any calendar year. Members hold office until the expiration of the terms for which they were appointed. The director may remove a board member for just cause. The director may appoint a new member to fill a vacancy on the board for the remainder of the unexpired term. All board members are limited to two consecutive terms.

(4) Each board member is entitled to compensation for each day spent conducting official business and to reimbursement for travel expenses in accordance with RCW 43.03.240, 43.03.050, and 43.03.060.

**NEW SECTION. Sec. 4. DIRECTOR'S AUTHORITY.** The director has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules approved by the board as deemed necessary to carry out this chapter;

(2) To adopt fees as provided in RCW 43.24.086;

(3) To administer licensing examinations approved by the board and to adopt or recognize examinations prepared by other organizations as approved by the board; and

(4) To adopt standards of professional conduct, practice, and ethics as approved by the board.

**NEW SECTION. Sec. 5. BOARD'S AUTHORITY.** The board has the following authority in administering this chapter:

(1) To establish rules, including board organization and assignment of terms, and meeting frequency and timing, for adoption by the director;

(2) To establish the minimum qualifications for licensing applicants as provided in this chapter;

(3) To approve the method of administration of examinations required by this chapter or by rule as established by the director;

(4) To approve the content of or recognition of examinations prepared by other organizations for adoption by the director;

(5) To set the time and place of examinations with the approval of the director; and

(6) To establish and review standards of professional conduct, practice, and ethics for adoption by the director.

**NEW SECTION. Sec. 6. QUALIFICATIONS FOR LICENSURE.** In order to become licensed as a home inspector, an applicant must submit the following to the department:

(1) An application on a form developed by the department;

(2) The fee in an amount set by the department and approved by the board;

(3) Proof of a minimum of one hundred twenty hours of classroom instruction approved by the board;

(4) Evidence of successful passage of the written exam as required in section 8 of this act;

(5) Proof of current state licensure as a structural pest inspector under chapter 15.58 RCW.

**NEW SECTION. Sec. 7. APPLICATION FOR LICENSING.** An application for licensing must be filed with the director and must contain statements made under oath demonstrating the applicant's qualifications. The director with the board's approval may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for licensing. The application fee for initial licensing shall be determined by the director as provided in RCW 43.24.086. The application, together with the fee, must be submitted to the department prior to the application deadline established by the director. Fees for initial licensing must include the examination and issuance of a certificate. If the director finds the applicant ineligible for licensing, the director shall retain the application fee.

**NEW SECTION. Sec. 8. WRITTEN EXAMS.** (1) The exam shall be designed to test applicants on conducting home inspections specific to Washington state.

(2) The exam shall be divided into five sections with forty questions in each section. Each applicant must pass each section of the exam with a score of seventy-five percent or better. The sections in the exam shall be divided as follows: (a) Ethics and standards of practice; (b) structure, roofing, site, exterior, interior; (c) heating, ventilation, and air conditioning; (d) plumbing; and (e) electrical.

(3) To qualify to take the exam, an applicant must provide the board and the department with acceptable documentation that the applicant has passed a state accredited home inspection course of at least one hundred twenty hours of classroom education. Persons who are performing home inspections as of the effective date of this section may receive up to twenty-five hours of credit towards the one hundred twenty hours of classroom education by proof of experience as determined by the board. In making this determination, the board shall consider the length of time a person has held a structural pest inspection license from the department of agriculture under chapter 15.58 RCW.

(4) Examinations of applicants for licensing must be held at times and places as determined by the board with the director's approval. A candidate failing an examination may apply for reexamination. Subsequent examinations must be granted upon payment of a fee.

**NEW SECTION. Sec. 9. LICENSE LENGTH AND RENEWAL.** (1) Licenses are issued for a term of two years and expire on the last day of the month the license was issued. Licenses must be in a form prescribed by the board and approved by the director. Licenses that are not renewed are considered to be expired and any home inspection activity which would require a license to perform which occurs after the expiration of the license is a violation of this chapter.

(2) Any person who receives an initial license under section 2(2) of this act must, upon renewal of his or her license, pass the examination required in section 6(4) of this act.

(3) Any licensee who fails to timely renew his or her license may renew his or her license only upon payment of renewal and late fees as set by the director. A licensee who fails to renew his or her license within six months from the date it expires is considered to have forfeited his or her rights to renew the license and can only be licensed by filing an application as an initial applicant and meeting all the requirements of an initial applicant.

**NEW SECTION. Sec. 10. ADVERTISING.** The term "licensed home inspector" along with the license number of the inspector must appear on all advertising, correspondence, and documents incidental to a home inspection.

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**NEW SECTION. Sec. 11. CONTINUING EDUCATION REQUIREMENTS.** (1) As a condition of renewing a license under this chapter, a licensed home inspector shall present satisfactory evidence to the board of having completed the continuing education requirements provided for in this section.

(2) Each applicant for license renewal shall complete at least thirty hours of instruction in courses approved by the board every two years.

**NEW SECTION. Sec. 12. INSURANCE.** All active practicing licensed home inspectors shall carry errors and omissions insurance at a minimum of one hundred thousand dollars or post a bond at the same level to cover all activities contemplated under this chapter, including inspection for wood destroying organisms.

**NEW SECTION. Sec. 13. HOME INSPECTORS AS CORPORATIONS PROHIBITED.** A license as a home inspector may not be issued to a corporation, limited liability company, partnership, firm, or group. However, this section does not prevent a licensed home inspector from rendering home inspections for or on behalf of a corporation, limited liability company, partnership, firm, or group, when the home inspection report is performed, prepared, and signed by a licensed home inspector.

**NEW SECTION. Sec. 14. WRITTEN REPORTS.** (1) A licensed home inspector shall provide a written report of the home inspection to each person for whom the inspector performs a home inspection within seven calendar days from the date of the inspections.

(2) A licensed home inspector shall not, from the time of the inspection until one year from the date of the report, perform any work other than home inspection-related consultation on the home upon which he or she has performed a home inspection.

**NEW SECTION. Sec. 15. HOME INSPECTOR'S ACCOUNT.** The home inspector's account is created in the custody of the state treasurer. All receipts from fines and fees collected under this chapter must be deposited into the account. Expenditures from the account may be used only to carry out the duties required for the operation and enforcement of this chapter. Only the director may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not necessary.

**NEW SECTION. Sec. 16. SUSPENSION OF LICENSE.** The director shall immediately suspend the license or practice permit of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a child support order. If the person has continued to meet all other requirements for a license under this chapter during the suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the child support order. The procedure in RCW 74.20A.320 is the exclusive administrative remedy for contesting the establishment of noncompliance with a child support order, and suspension of a license under this subsection, and satisfies the requirements of RCW 34.05.422.

**NEW SECTION. Sec. 17. CIVIL INFRACTIONS.** The department has the authority to issue civil infractions under chapter 7.80 RCW in the following instances:

- (1) Conducting or offering to conduct a home inspection without being licensed in accordance with this chapter;
- (2) Presenting or attempting to use as his or her own the home inspector license of another;
- (3) Giving any false or forged evidence of any kind to the director or his or her authorized representative in obtaining a license;
- (4) Falsely impersonating any other licensee; or
- (5) Attempting to use an expired or revoked license.

All fees, fines, and penalties collected or assessed by a court because of a violation of this section must be remitted to the

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department to be deposited into the home inspector's account created in section 15 of this act.

**NEW SECTION. Sec. 18. RELIEF BY INJUNCTION.** The director is authorized to apply for relief by injunction without bond, to restrain a person from the commission of any act that is prohibited under section 17 of this act. In such proceedings, it is not necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from continued violation. The director, individuals acting on the director's behalf, and members of the board are immune from suit in any action, civil or criminal, based on disciplinary proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter.

**NEW SECTION. Sec. 19. GENERAL EXCLUSIONS.** (1) The home inspector is not required to determine the following:

- (a) The condition of systems or components that are not readily accessible;
- (b) The remaining life of any system or component;
- (c) The strength, adequacy, effectiveness, or efficiency of any system or component;
- (d) The cause of any condition or deficiency;
- (e) The methods, materials, or costs of corrections;
- (f) Future conditions including but not limited to failure of systems and components;
- (g) The suitability of the property for any specialized use;
- (h) Compliance with regulatory requirements;
- (i) The market value of the property or its marketability; and
- (j) The presence of environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water, and air.

(2) Home inspectors are not required to enter the following:

- (a) Any area that will likely be dangerous to the inspector or other persons or damage the property or its systems or components; or
- (b) The underfloor crawl spaces or attics that are not readily accessible; however, substructure crawl spaces must be inspected when accessible. Inaccessibility of substructure crawl space areas due to inadequate clearance, the presence of ducting or piping, foundation walls, partitions, or other such conditions that block access must be explained in the inspection report. The report must state that inaccessible substructure crawl space areas may be vulnerable to infestation by wood-destroying organisms and should be made accessible for inspection.

**NEW SECTION. Sec. 20. EXEMPTION FROM LICENSING.** Any person licensed by the department of agriculture as a pesticide applicator or operator under chapter 17.21 RCW, or as a structural pest inspector under chapter 15.58 RCW who performs only wood destroying organism inspections, is exempt from the licensing provisions of this chapter.

**NEW SECTION. Sec. 21.** Sections 1 through 20 of this act constitute a new chapter in Title 18 RCW.

**NEW SECTION. Sec. 22.** Captions used in this act are not any part of the law."

Senators Spanel and Holmquist spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Spanel and others to Substitute Senate Bill No. 5788.

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

#### MOTION

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

On page 1, line 1 of the title, after "inspectors;" strike the remainder of the title and insert "adding a new chapter to Title 18 RCW; creating a new section; and prescribing penalties."

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MOTION

On motion of Senator Spanel, the rules were suspended, Engrossed Substitute Senate Bill No. 5788 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Brown was excused.

MOTION

On motion of Senator Delvin, Senators Benton, Carrell, McCaslin and Stevens were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5788.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5788 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

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

Voting nay: Senators Honeyford and Stevens - 2

Excused: Senators Brown and Carrell - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5788, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5803, by Senators Murray, Haugen, Swecker, Kastama and Kohl-Welles

Creating regional transportation commissions.

MOTION

On motion of Senator Murray, Substitute Senate Bill No. 5803 was substituted for Senate Bill No. 5803 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

**"PART I  
DECLARATION OF POLICY AND PURPOSE**

NEW SECTION. **Sec. 101.** FINDINGS AND DECLARATION OF POLICY. The legislature finds that:

(1) The absence of unified regional transportation governance, planning, funding, and prioritization has resulted in a road and transit system that is inadequate for the current and future needs of the state, particularly in dense urban regions. There is a severe strain on regional transportation systems that is clearly noticeable through several important indicators, including congestion. Continued population and transportation demand growth has created a looming regional transportation crisis caused in part by a history of under funding transportation.

(2) The existing approach to transportation governance has left the state with a struggle to maintain deteriorating transportation infrastructure, insufficient road and transit capacity, an inconsistent system for planning and funding transportation, insufficient cooperation among transportation jurisdictions, and reduced public confidence in governmental ability to solve transportation problems.

(3) An overly localized and insufficient focus on regional needs, particularly on large and multijurisdictional projects, have caused costly delays in constructing new transit and highway systems. Regional transportation projects must be effectively prioritized on a unified basis, but this has not occurred because there is no regional governmental entity responsible for prioritizing regional projects across geographic lines and modes.

(4) There is an inadequate connection between transportation demand, land use planning, and transportation planning, which also causes costly delays in meeting transportation demand. No governmental entity views the systemic needs of the entire region, and prioritization of those needs, as its primary responsibility.

(5) The lack of transportation demand/capacity management, pricing coordination, mass transit, and coordinated transportation governance is limiting the mobility of both people and goods in the state.

(6) Most transit systems were initially developed to provide local service, but are now forced to play a large role in regional transportation networks. Effective transportation planning in urbanized regions requires stronger and clearer lines of responsibility and accountability. Integrated, multimodal transportation planning and prioritization will help reduce transportation congestion and improve security and safety, and that streamlined decision making will help reduce political congestion.

(7) The coordinated planning of, investment in, and operation of transportation systems will have significant benefit to the citizens of Washington, and it is the will of the people to fund regional transportation solutions, including improving transit service in urbanized areas and among multiple transit agencies. Equity considerations must be respected, but transportation problems are broader and deeper than the sum of geographic subareas.

(8) Our current system of transportation governance delivers inadequate results, and requires fundamental systemic change to meet our state's transportation needs.

(9) Accordingly, the policy of the state of Washington is to allow the formation of regional transportation commissions as regional transportation governing entities more directly accountable to the public, to coordinate and prioritize regional transportation planning, to fund regional mobility projects, and to develop and facilitate the implementation of integrated regional transportation demand, capacity, pricing, and operating solutions.

**PART II  
DEFINITIONS**

NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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(1) "Regional transportation commission" or "commission" means a municipal corporation created under this chapter or the governing body of commissioners of the municipal corporation.

(2) "Component county" means a county included in the jurisdiction of a regional transportation commission.

(3) "Department" means the department of transportation.

(4) "Local elected official" means an individual who has been elected to serve as a mayor, executive, councilmember, or commissioner for a county, city, town, or port within a regional transportation commission's geographic area.

(5) "Mobility project" means:

(a) The design, financing, construction, operation, and maintenance of a road, street, highway, high-occupancy vehicle lane, ramp, parking facility, vehicle pullout, signal, meter, or other transportation system management improvement or public transportation facility, including equipment; or

(b) Public transportation, including the transport of passengers, their incidental baggage, and packages, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from these people-moving systems. Public transportation includes, without limitation, buses, vans, trolleys, and rail-based transit. Public transportation does not include personal vehicles, chartered buses, sightseeing buses, taxicabs regulated under chapter 81.72 RCW, or similar means of conveyance, or Washington state ferries.

(6) "Mobility project of regional significance" means a mobility project that connects or serves two or more counties or that a commission otherwise designates as having major significance to regional transportation. "Mobility project of regional significance" includes all public transportation of a regional transit authority that includes more than one county.

(7) "Transportation policy board" means a body convened by the commission under section 304 of this act.

(8) "Public transportation agency" means any municipal corporation, state department or agency, or other entity, instrumentality, or division, or affiliate that owns or operates public transportation. "Public transportation agency" includes, without limitation, regional transit authorities and the department.

(9) "Regional mobility investment plan" or "plan" means a regional mobility investment plan prepared in accordance with section 305 of this act.

### PART III REGIONAL TRANSPORTATION COMMISSION

**NEW SECTION. Sec. 301. FORMATION AND EXPANSION.** (1) A regional transportation commission must be created in an area within the complete boundaries of a county with a population greater than one million five hundred thousand persons and any adjoining counties with a population greater than two hundred thirty thousand persons.

(2) A regional transportation commission must be created by ordinance of the legislative authorities of the contiguous counties referenced in subsection (1) of this section such that the governing body is fully constituted, and the commission is authorized to exercise the powers granted in section 303 of this act, by January 1, 2009. However, a commission may not be created before January 1, 2008.

(3) A regional transportation commission is a municipal corporation and possesses all the usual corporate powers as well as all other powers conferred by statute.

(4) A regional transportation commission is an independent taxing authority within the meaning of Article VII, section 1 of the state Constitution, and a taxing district within the meaning of Article VII, section 2 of the state Constitution. However, solely for the purposes of establishing the regional transportation commission's independent taxing authority and the taxing district boundaries, the taxing district shall not include the following geographic area, and the commission shall

not impose or authorize any taxes, fees, tolls, or charges within the geographic area:

(a) Any portion of a county that is located on a peninsula if it is connected to the other portion of the county by a bridge improved under chapter 47.46 RCW; and

(b) The complete boundaries of a county with a population greater than two hundred thirty thousand, but fewer than five hundred thousand.

(5) The state and federal regional planning functions prescribed under this act must apply throughout the complete boundaries of all the counties described in subsection (1) of this section.

(6) A regional transportation commission may be expanded to include the complete boundaries of additional contiguous counties, regardless of population, if the commission and the legislative authority of every county in the proposed expanded commission adopts a resolution authorizing the expanded commission. At least sixty days before adopting a resolution approving expansion, the commission shall adopt policies governing the expansion process and integration of new counties into the existing commission. However, only one regional transportation commission may exist in any county or counties.

**NEW SECTION. Sec. 302. GOVERNANCE.** (1) The governing body of a regional transportation commission consists of twelve nonpartisan commissioners.

(2) Commissioners are apportioned and elected as follows:

(a) One commissioner appointed by each county executive of the component counties, or by the chair of the component county's legislative authority if the position of county executive is not applicable, and confirmed by the legislative authority of the respective component county. The appointments should include individuals who have experience in regional transportation issues and are experienced in the design, construction, operation, maintenance, or financing of public transportation and mobility projects;

(b) Eight commissioners apportioned to eight geographical districts and elected on a nonpartisan basis. Each commissioner representing a district must be a registered voter residing within that district. Initial apportionment and establishment of district lines must be determined by the component counties within thirty days of the formation of a regional transportation commission according to the requirements in (c) of this subsection. Subsequent reapportionment and drawing of district lines must be conducted by the Washington state redistricting commission during its decennial redistricting operations under Article II, section 43 of the state Constitution;

(c) Each district must contain a population, excluding nonresident military personnel, as equal as practicable to the population of any other district. To a reasonable extent, each district must contain contiguous territory, be compact and convenient, and be separated from adjoining districts by natural geographic barriers, artificial barriers, or political subdivision boundaries. However, commissioners may not be apportioned, and districts may not be established, for the geographic area described in section 301(4) (a) and (b) of this act.

(3) Commissioners shall serve six-year terms of office, except that three of the initially elected commissioners representing a district shall serve a two-year term of office and three of the initially elected commissioners representing a district shall serve four-year terms. The component counties shall designate which districts have commissioners that serve two-year, four-year, and six-year terms. The first election for commissioners must be held at the general election following the formation of a commission, consistent with Title 29A RCW.

(4) The commissioners shall appoint a chair every three years from among the commission membership.

(5) Vacancies in appointed positions must be filled by appointment of the county executive representing the county that the vacating appointee represented, and the appointee filling the vacancy shall serve for the remainder of the unexpired term of the respective office. Vacancies in elected positions must be

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filled by a person approved by a majority of the remaining commissioners, who shall serve on an interim basis until the vacancy is filled at the next general election held more than one hundred eighty days after the date the vacancy is filled, or for the remainder of the unexpired term of the respective office, whichever comes sooner. A person elected to fill a vacancy shall serve for the remainder of the unexpired term of the respective office.

(6) Commissioners may only be removed for malfeasance or misfeasance in office.

**NEW SECTION. Sec. 303. POWERS AND PURPOSES.**

A regional transportation commission shall:

(1) Prepare, adopt, and implement a comprehensive and integrated corridor-based multimodal regional mobility investment plan described under section 305 of this act that plans, prioritizes, and finances improvements to highways, streets, roads, and public transportation that will serve the residents of the region, and amend the plan to meet changed conditions and requirements. In implementing the plan, or exercising its authority under this section, the commission may: Levy, impose, collect, and spend taxes, user fees, tolls, and charges; receive and spend state, federal, and private funds; and lend and grant funds to public transportation agencies, cities, counties, other local governments, and the department for the purposes of planning, designing, constructing, operating, or maintaining mobility projects, including, without limitation, public transportation;

(2) Consistent with its functions as a regional transportation planning organization under subsection (7) of this section: Conduct comprehensive and integrated corridor-based multimodal transportation planning and prioritization activities that will improve the mobility of people and goods in the region; reduce transportation congestion, improve security and safety; coordinate and integrate transportation and land use planning, including multimodal transportation improvements and strategies that comply with the transportation concurrency requirements under RCW 36.70A.070(6) and 36.70A.108; improve modal connectivity; and generally assist in providing an efficient regional transportation system. The transportation planning and prioritization activities must provide for, wherever feasible, transportation demand/capacity management, pricing coordination, mass transit, and coordinated transportation governance. Corridor planning should include the full range of strategies available that most efficiently move people and goods consistent with the region's land use goals including, without limitation: Demand management tools, such as congestion pricing, parking pricing, and trip reduction incentives; high capacity transit expansion; increased local transit; investments in regionally significant bicycle paths and pedestrian connections; and expanded roadway capacity;

(3) Establish routes and classes of service, fix rates, tolls, fares, and charges for public transportation services or routes that constitute public transportation of regional significance;

(4) In consultation with local public transportation agencies operating within the region, establish a program for interconnecting fares, schedules, and transfers on trips using public transportation agencies for public transportation or public transportation routes that constitute public transportation of regional significance, and require the participation of public transportation agencies in that program. In developing the program under this subsection (4), the commission shall develop standards for the coordination of capital investment, service standards, and service coordination of public transportation agencies in the region. The goal of these standards is to maximize coordination within and among systems, use resources more effectively, and enhance services to the public. The standards must also address vanpool coordination, fare policies, and transportation demand management programs;

(5) Establish a procedure requiring that bond issues, taxes, user fees, tolls, or charges that (a) require voter approval, for mobility projects located within the commission's geographic

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boundaries and (b) constitute mobility projects of regional significance, be approved by the commission before placing those bond or revenue measures on a ballot for voter approval. Bond issues, property taxes, and excise taxes for mobility projects that do not constitute mobility projects of regional significance shall not require a commission's approval before being placed on the ballot;

(6) Negotiate with the state and appropriate local jurisdictions to prioritize all state transportation projects within the commission's borders and the order in which state transportation funds for mobility projects within the commission's borders are expended;

(7) Serve as the regional transportation planning organization under chapter 47.80 RCW for the area within the commission's borders and, if designated or redesignated under federal law, serve as the metropolitan planning organization for the commission's geographic area. A commission has all the powers and responsibilities of a regional transportation planning organization described under chapter 47.80 RCW. The commission is the lead planning agency for planning under chapter 47.80 RCW unless the commission designates another lead agency for a specified project. If a commission is fully constituted and authorized to exercise its powers as prescribed in section 301(2) of this act within a geographic area that includes an existing regional transportation planning organization and metropolitan planning organization, the planning organizations dissolve upon the exercise of the commission's powers, and all the obligations of the planning organizations must be transferred to the commission as successor to the planning organizations. However, the existing metropolitan planning organization dissolves, and its obligations transfer to the commission as the successor entity, only if the commission is designated or redesignated under federal law to serve as the metropolitan planning organization. The regional transportation planning organization's powers and responsibilities may be exercised whether the commission has been designated or redesignated under federal law to serve as the metropolitan planning organization;

(8) Employ or contract with engineering, legal, financial, or other employees, specialized personnel, or consultants as necessary to accomplish the purposes of the commission;

(9) Exercise all other powers necessary and appropriate to carry out its responsibilities including, without limitation, the power to sue and be sued, to enter into contracts, and to acquire, own, and transfer real and personal property and property rights by lease, sublease, purchase, or sale. A commission may establish an expert review panel, composed of members with areas of expertise that benefit the commission, to review, analyze, and make recommendations on any aspect of a proposed mobility project of regional significance. A commission may also sell, lease, convey, or otherwise dispose of any real or personal property or property rights no longer necessary or desirable for the conduct of the affairs of the commission. However, unless negotiated and agreed upon by applicable parties, a regional transportation commission may not own, operate, construct, or maintain mobility projects or public transportation assets, but shall contract or otherwise provide for such ownership, operation, construction, or maintenance to be carried out by other public or private entities;

(10) In accordance with section 306 of this act, determine and establish the tolls and charges for mobility projects of regional significance within the commission's geographic area. Any determination and establishment of tolls and charges for bridges, highways, lanes, roads, and other facilities must be consistent with tolling policies adopted by the transportation commission;

(11) If approved by the governor and necessary local parties under 23 U.S.C. Sec. 134, be the metropolitan planning organization for the region to promote consistency between transportation improvements and state and local planned growth and economic development patterns;

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(12) Establish an incentives-based process of negotiating cooperative relationships with affected local jurisdictions within the region in order to promote an efficient, comprehensive, and integrated corridor-based multimodal regional transportation system;

(13) Enter into interlocal agreements or agreements with local governments, the state, or the federal government regarding the establishment, composition, and responsibilities of a transportation policy board under section 304 of this act; and

(14) Adopt policies and procedures regarding the reimbursement for expenses incurred by commissioners for activities related to their work as commissioners.

**NEW SECTION. Sec. 304. TRANSPORTATION POLICY BOARD.** (1) Each commission shall create a transportation policy board to provide a forum for state, regional, and local officials, transportation providers, and private citizens to deliberate issues that affect transportation planning, prioritization, and funding within the commission's boundaries. The commission shall develop procedures governing the transportation policy board's duties, procedures, and formal review of plans and programs.

(2) The commission, along with local governments, the state, and the federal government as required under section 303(13) of this act, shall jointly determine the composition and responsibilities of the transportation policy board, including any functions necessary to comply with federal law as directed by a federal agency. Members should include local elected officials, representatives of public transportation agencies, the secretary of transportation or his or her designee, representatives of private sector transportation and shipping industries, private citizens, and representatives of major employers within the region. Members of a commission may also be appointed as transportation policy board members, and elected commissioners who serve on a transportation policy board are deemed local elected officials for the purposes of this section.

(3) The transportation policy board shall formally review and comment on the regional mobility investment plan, the transportation improvement program prepared to comply with applicable federal law, and other transportation planning documents relevant to the region before adoption and implementation by the commission. The transportation policy board shall hold at least one public hearing in each component county before issuing formal comments on a transportation improvement program.

(4) If required by a federal agency, the commission may provide that a transportation improvement program for federal purposes be approved by the transportation policy board and that the transportation policy board serve as the policy board of a metropolitan planning organization under 23 U.S.C. Sec. 134 and 23 C.F.R. Part 450. However, any transportation improvement program shall not be considered adopted unless it receives final approval from the commission.

**NEW SECTION. Sec. 305. REGIONAL MOBILITY INVESTMENT PLAN.** (1)(a) The commission shall prepare a comprehensive and integrated corridor-based multimodal regional mobility investment plan for highways and transit improvements that creates a prioritized list of mobility projects of regional significance, or local mobility projects if applicable under subsection (3) of this section, that will be funded in whole or in part by or through the regional transportation commission, the state, the federal government, or private sources. The plan must also identify which funding sources, as authorized by this chapter, will be levied, imposed, or otherwise authorized to carry out the projects identified in the regional mobility investment plan.

(b) Projects in the plan must be evaluated against the following criteria:

(i) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

(ii) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(iii) Mobility: To improve the predictable movement of goods and people throughout the region;

(iv) Environment: To enhance the region's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

(v) Stewardship: To be effective managers of the regional transportation system.

(2) An initial plan must be placed on a general election ballot for elector approval. However, before being submitted for elector approval, the plan must receive unanimous approval of the commission. If a majority of the electors voting on the plan vote in favor of it, the commission may implement measures contained in the plan. The ballot title must reference the regional mobility investment plan. However, if a regional transportation commission is fully constituted and authorized to exercise its powers as prescribed in section 301(2) of this act, after voter approval of a ballot measure under RCW 36.120.070, the commission, without the need for additional voter approval, shall adopt the regional transportation investment district voter-approved plan as part of the commission's regional mobility investment plan. Subject to unanimous approval of the commission, the commission may submit subsequent plans for voter approval at general or special elections that the commission determines as appropriate.

(3) Municipal corporations within a commission's borders, including regional transit authorities, may request that the commission incorporate, in the regional mobility investment plan, any local plans or proposed mobility projects, or both, together with taxes, user fees, tolls, and charges to finance those projects. Voter approval of a regional mobility investment plan that includes local plans or proposed mobility projects, or both, constitutes the necessary voter approval for (a) the local plans and projects and (b) the levy, imposition, or authorization of the local taxes, tolls, charges, and user fees by the municipal corporations. The commission shall establish procedures for the inclusion of local plans, proposed projects, taxes, and user fees in the regional mobility investment plan. The commission may decline to include any local plans, projects, taxes, tolls, charges, or user fees in the regional mobility investment plan.

(4) After a regional mobility investment plan has received voter approval, a two-thirds majority of the commission may amend any aspect of the plan including, without limitation, the regional project list and prioritization of projects included in the plan, and may redirect the expenditure of taxes, user fees, tolls, and charges. The plan may also be amended in any respect by a majority vote of the electors of the commission, if the amendments are proposed to the electors by a majority of the commission. A local jurisdiction or transit agency shall not redirect taxes or fees approved by voters as part of a regional mobility investment plan without the approval of a two-thirds majority of the commission.

(5) Before adoption, approval, or amendment of a regional mobility investment plan, the commission shall review any recommendations of the transportation policy board and hold at least one public hearing in each component county to allow citizens, public agencies, freight shippers, providers of freight and public transportation services, representatives of pedestrian walkway and bicycle facility users, representatives for individuals with disabilities, and agencies for safety/security operations a reasonable opportunity to be involved in the transportation planning process.

**NEW SECTION. Sec. 306. TAXES, USER FEES, AND TOLLS.** (1) A regional transportation commission may, as part of a regional mobility investment plan, recommend the imposition or authorization of some or all of the following revenue sources, which a regional transportation commission may levy, impose, or authorize if contained in a regional



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mobility investment plan approved by the electors under section 305 of this act:

(a) A regional sales and use tax, as specified in RCW 82.14.430, of up to one percent of the selling price, in the case of a sales tax, or value of the article used, in the case of a use tax, upon the occurrence of any taxable event in the regional transportation commission's boundaries;

(b) A local option vehicle license fee, as specified under RCW 82.80.100, of up to one hundred dollars per vehicle registered in the commission's boundaries. As used in this subsection, "vehicle" means motor vehicle as defined in RCW 46.04.320. Certain classes of vehicles, as defined under chapter 46.04 RCW, may be exempted from this fee;

(c) A parking tax under RCW 82.80.030;

(d) A local motor vehicle excise tax under RCW 81.100.060;

(e) A local option fuel tax under RCW 82.80.120;

(f) An employer excise tax under RCW 81.100.030; and

(g) Vehicle tolls, including corridor tolling, and demand management charges on mobility projects of regional significance including, without limitation, state or federal highways within the boundaries of the commission, if the following conditions are met:

(i) The regional mobility investment plan must identify the facilities that may be tolled;

(ii) The tolls must be consistent with tolling policies adopted by the transportation commission; and

(iii) Unless otherwise specified by law or by contract between a commission and the department, the department shall administer the collection of vehicle rates, tolls, and charges on designated facilities, which must, if required by the department, be compatible with statewide standards and protocols for intermodal and interfacility charges. For purposes of this section, "vehicle tolls" includes vehicle user fees imposed for capacity/demand management including, but not limited to, high-occupancy lane charges, value pricing, and congestion pricing.

(2) Taxes and vehicle license fees described in this section may not be imposed or authorized without an affirmative vote of the majority of the voters within the boundaries of the regional transportation commission voting on a ballot proposition either as part of the voter approval of a regional mobility investment plan under section 305 of this act or as a separate ballot measure. Vehicle tolls may be imposed or authorized on any project approved by the commission. Revenues from taxes, fees, and tolls may be used only to implement a regional mobility investment plan as set forth in this chapter and to provide for the commission's costs incurred in carrying out its responsibilities under this chapter. A commission may contract with the state department of revenue or other appropriate entities for the administration and collection of any of the taxes, fees, charges, or tolls authorized in this section.

(3) A commission may impose taxes or fees that are substantially similar to those previously imposed or levied by a regional transit authority within the commission's geographic area under chapter 81.104 RCW, only to the extent that the tax or fee does not exceed the statutory limits prescribed under this section.

(4) A commission shall not, unless otherwise negotiated and agreed upon by applicable parties, directly spend, or otherwise control, a local jurisdiction's or transit agency's locally imposed funds.

(5) The taxes, fees, charges, and tolls collected by a commission are not subject to utility, business and occupation, or other excise taxes imposed by municipal corporations located within the commission's boundaries.

**NEW SECTION. Sec. 307. TREASURER.** (1) A regional transportation commission, by resolution, shall designate a person with experience in financial or fiscal matters as treasurer of the commission. The commission may designate the treasurer of any county within which the commission is located to act as

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its treasurer. The designated treasurer has all of the powers, responsibilities, and duties the county treasurer has related to investing surplus funds. The commission shall require a bond with a surety company authorized to do business in this state in an amount and under the terms and conditions the commission, by resolution, from time to time finds will protect the commission against loss. The commission shall pay the premium on the bond.

(2) If the treasurer of the commission is also the treasurer of a county, all commission funds must be deposited with a county depository under the same restrictions, contracts, and security as provided for county depositories. If the treasurer of the commission is not the treasurer of a county, all funds must be deposited in a bank or banks that are public depositories as defined in RCW 39.58.010 and are qualified for insured deposits under any federal deposit insurance act as the commission, by resolution, designates, or funds shall be invested in legal investments for counties.

(3) The commission may provide and require a reasonable bond of any other person handling money or securities of the commission, but the commission shall pay the premium on the bond.

**NEW SECTION. Sec. 308. PER DIEM COMPENSATION.** Each commissioner may receive compensation equal to the salary applicable to a member of the legislative authority of the most populous county within the commission's geographic area. A commissioner may waive all or a portion of his or her compensation under this section during his or her term of office, by a written waiver filed with the regional transportation commission. The compensation provided in this section is in addition to reimbursement for expenses paid to commissioners by the regional transportation commission.

**NEW SECTION. Sec. 309. EMPLOYEES, SALARIES, AND BENEFITS.** A regional transportation commission may create and fill positions, fix reasonable wages and salaries, pay costs involved in hiring employees, and establish reasonable benefits for employees, including holiday pay, vacations or vacation pay, retirement benefits, and medical, life, accident, or health disability insurance, as approved by the commission.

**NEW SECTION. Sec. 310. EXISTING REGIONAL PLANNING STAFFS.** (1) If a commission is fully constituted and authorized to exercise its powers as prescribed in section 301(2) of this act in an area with an existing regional transportation planning organization and metropolitan planning organization, the commission shall, as a successor employer, initially hire all employees of the regional transportation planning organization, and the metropolitan planning organization if the commission has been designated or redesignated to serve as the metropolitan planning organization, to continue employment in substantively similar positions and on terms similar to their prior employment.

(2) If a commission is formed in an area with an existing regional transit agency, the commission shall, as a successor employer, initially hire all employees of the regional transit agency engaged in long-range planning, including system plans, to continue employment in substantively similar positions and on terms similar to their prior employment.

(3) This section does not prevent the dismissal of employees that is necessary to meet budget constraints or for other reasons in the ordinary course of business.

(4) The combined staff indicated under this section shall work cooperatively, and in a coordinated fashion, with the administrative region within the department of transportation established under section 316 of this act. The commission shall establish a negotiated process with the department, and other applicable local planning offices, that ensures the respective agencies are planning for a comprehensive and integrated corridor-based multimodal regional transportation system.

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**NEW SECTION. Sec. 311. TRANSIT STUDIES.** (1) The commission shall submit to the legislature a report and recommendations regarding whether integrating or combining public transit agencies in the central Puget Sound region would facilitate the implementation of a comprehensive and integrated corridor-based multimodal regional transportation system. The report and recommendations must be submitted no later than eighteen months after formation of the commission.

(2) The commission shall submit to the legislature a report and recommendations regarding the application of regional transportation governance to waterways and passenger-only ferries in the central Puget Sound region no later than eighteen months after formation of the commission.

**Sec. 312.** RCW 47.80.020 and 1990 1st ex.s. c 17 s 54 are each amended to read as follows:

The legislature hereby authorizes creation of regional transportation planning organizations within the state. Each regional transportation planning organization shall be formed through the voluntary association of local governments within a county, or within geographically contiguous counties. Each organization shall:

- (1) Encompass at least one complete county;
- (2) Have a population of at least one hundred thousand, or contain a minimum of three counties; and
- (3) Have as members all counties within the region, and at least sixty percent of the cities and towns within the region representing a minimum of seventy-five percent of the cities' and towns' population.

The state department of transportation must verify that each regional transportation planning organization conforms with the requirements of this section. If a regional transportation commission serves as the regional transportation planning organization under section 303 of this act, it shall be deemed in conformance with the requirements of this section.

In urbanized areas, the regional transportation planning organization is the same as the metropolitan planning organization designated for federal transportation planning purposes. If a regional transportation commission serves as the regional transportation planning organization under section 303 of this act and if required by a federal agency, the transportation policy board of the regional transportation commission may, subject to section 304(4) of this act, take approval actions required of metropolitan planning organizations under 23 U.S.C. Sec. 134 and 23 C.F.R. Part 450.

**Sec. 313.** RCW 47.80.060 and 2005 c 334 s 1 are each amended to read as follows:

In order to qualify for state planning funds available to regional transportation planning organizations, the regional transportation planning organizations containing any county with a population in excess of one million shall provide voting membership on its executive board to the state transportation commission, the state department of transportation, and the four largest public port districts within the region as determined by gross operating revenues. It shall further assure that at least fifty percent of the county and city local elected officials who serve on the executive board also serve on transit agency boards or on a regional transit authority. This section does not apply to a regional transportation commission that serves as a regional transportation planning organization under section 303 of this act.

**Sec. 314.** RCW 81.112.080 and 1992 c 101 s 8 are each amended to read as follows:

An authority shall have the following powers in addition to the general powers granted by this chapter:

(1) To carry out the planning processes set forth in RCW 81.104.100. If an authority is located in the geographic area of a regional transportation commission created under section 301 of this act, the regional transportation commission shall carry out the planning process set forth in RCW 81.104.100;

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain,

operate, and regulate the use of high capacity transportation facilities and properties within authority boundaries including surface, underground, or overhead railways, tramways, busways, buses, bus sets, entrained and linked buses, ferries, or other means of local transportation except taxis, and including escalators, moving sidewalks, personal rapid transit systems or other people-moving systems, passenger terminal and parking facilities and properties, and such other facilities and properties as may be necessary for passenger, vehicular, and vessel access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such high capacity transportation systems. When developing specifications for high capacity transportation system operating equipment, an authority shall take into account efforts to establish or sustain a domestic manufacturing capacity for such equipment. The right of eminent domain shall be exercised by an authority in the same manner and by the same procedure as or may be provided by law for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this chapter. Public transportation facilities and properties which are owned by any city, county, county transportation authority, public transportation benefit area, or metropolitan municipal corporation may be acquired or used by an authority only with the consent of the agency owning such facilities. Such agencies are hereby authorized to convey or lease such facilities to an authority or to contract for their joint use on such terms as may be fixed by agreement between the agency and the authority(;

~~The facilities and properties of an authority whose vehicles will operate primarily within the rights of way of public streets, roads, or highways, may be acquired, developed, and operated without the corridor and design hearings that are required by RCW 35.58.273 for mass transit facilities operating on a separate right of way);~~

(3) To dispose of any real or personal property acquired in connection with any authority function and that is no longer required for the purposes of the authority, in the same manner as provided for cities of the first class. When an authority determines that a facility or any part thereof that has been acquired from any public agency without compensation is no longer required for authority purposes, but is required by the agency from which it was acquired, the authority shall by resolution transfer it to such agency;

(4) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service, subject to approval by and coordination with a regional transportation commission under section 303 of this act. Fares or charges may be adjusted or eliminated for any distinguishable class of users.

**Sec. 315.** RCW 47.56.030 and 2002 c 114 s 19 are each amended to read as follows:

(1) Except as permitted under chapter 47.46 RCW or sections 301 through 305 of this act:

(a) The department of transportation shall have full charge of the construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The transportation commission shall determine and establish the tolls and charges thereon, and shall perform all duties and exercise all powers relating to the financing, refinancing, and fiscal management of all toll bridges and other toll facilities including the Washington state ferries, and bonded indebtedness in the manner provided by law.

(c) The department shall have full charge of design of all toll facilities.

(d) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to

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completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (d)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) Except as provided in (d) of this subsection, when the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

(i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;

(ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;

(iii) Whether the proposer can perform the contract within the time specified;

(iv) The quality of performance of previous contracts or services;

(v) The previous and existing compliance by the proposer with laws relating to the contract or services;

(vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and

(vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life cycle cost analysis that includes an evaluation of fuel efficiency. When a life cycle cost analysis is used, the life cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose

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proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

(d) If the department is procuring large equipment or systems (e.g., electrical, propulsion) needed for the support, maintenance, and use of a ferry operated by Washington state ferries, the department shall proceed with a formal request for proposal solicitation under this subsection (2) without a determination of necessity by the secretary.

**NEW SECTION. Sec. 316.** A new section is added to chapter 47.01 RCW to read as follows:

(1) The secretary shall reorganize the department's existing administrative regions such that one administrative region is dedicated solely to supporting King, Pierce, and Snohomish counties.

(2) If a regional transportation commission is formed under section 301 of this act, and in accordance with section 310 of this act, the department's administrative region established under this section shall work cooperatively, and in a coordinated fashion, with the planning staff employed by the regional transportation commission. Additionally, the department shall participate in the negotiated planning process provided under section 310 of this act.

**Sec. 317.** RCW 47.80.040 and 2003 c 351 s 1 are each amended to read as follows:

Each regional transportation planning organization shall create a transportation policy board. Transportation policy boards shall provide policy advice to the regional transportation planning organization and shall allow representatives of major employers within the region, the department of transportation, transit districts, port districts, and member cities, towns, and counties within the region to participate in policy making. Any members of the house of representatives or the state senate whose districts are wholly or partly within the boundaries of the regional transportation planning organization are considered ex officio, nonvoting policy board members of the regional transportation planning organization. This does not preclude legislators from becoming full-time, voting board members. This section does not apply to a regional transportation commission that serves as a regional transportation planning organization under section 303 of this act.

#### PART IV

#### ADDITIONAL TAXING AND TOLLING AUTHORITY

**Sec. 401.** RCW 82.14.430 and 2006 c 311 s 17 are each amended to read as follows:

(1) If approved by the majority of the voters within its boundaries voting on the ballot proposition for a regional mobility investment plan or regional transportation investment district, a regional transportation commission or regional transportation investment district may impose a sales and use tax of up to one percent of the selling price or value of the article used in the case of a use tax, if imposed by a regional transportation commission, and up to 0.1 percent of the selling price or value of the article used in the case of a use tax, if imposed by a regional transportation investment district. The tax authorized by this section is in addition to the tax authorized by RCW 82.14.030 and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district. Motor vehicles are exempt from the sales and use tax imposed under this subsection.

(2) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation commission or regional transportation investment district may impose a tax on the use of a motor vehicle within a regional transportation commission or regional transportation investment district. The tax applies to those persons who reside within the regional transportation commission or regional transportation investment district. The rate of the tax may not

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exceed one percent of the value of the motor vehicle, in the case of a regional transportation commission, or 0.1 percent of the value of the motor vehicle, in the case of a regional transportation investment district. The tax authorized by this subsection is in addition to the tax authorized under RCW 82.14.030 and must be imposed and collected at the time a taxable event under RCW 82.08.020(1) or 82.12.020 takes place. ~~((All revenue received under this subsection must be deposited in the local sales and use tax account and distributed to the regional transportation investment district according to RCW 82.14.050.))~~ The following provisions apply to the use tax in this subsection:

(a) Where persons are taxable under chapter 82.08 RCW, the seller shall collect the use tax from the buyer using the collection provisions of RCW 82.08.050.

(b) Where persons are taxable under chapter 82.12 RCW, the use tax must be collected using the provisions of RCW 82.12.045.

(c) "Motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(d) "Person" has the meaning given in RCW 82.04.030.

(e) The value of a motor vehicle must be determined under RCW 82.12.010.

(f) Except as specifically stated in this subsection (2), chapters 82.12 and 82.32 RCW apply to the use tax. The use tax is a local tax imposed under the authority of chapter 82.14 RCW, and chapter 82.14 RCW applies fully to the use tax.

(3) In addition to fulfilling the notice requirements under RCW 82.14.055(1), and unless waived by the department, a regional transportation commission or regional transportation investment district shall provide the department of revenue with digital mapping and legal descriptions of areas in which the tax will be collected.

(4) All revenue received under this section must be deposited in the local sales and use tax account and distributed to the regional transportation commission or regional transportation investment district according to RCW 82.14.050.

**Sec. 402.** RCW 82.80.010 and 2003 c 350 s 1 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030.

(2) Subject to the conditions of this section, any county may levy, by approval of its legislative body and a majority of the registered voters of the county voting on the proposition at a general or special election, additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the county. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the county fuel excise tax. An election held under this section must be held not more than twelve months before the date on which the proposed tax is to be levied. The ballot setting forth the proposition shall state the tax rate that is proposed. The county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax shall not be levied less than one month from the date the election results are certified by the county election officer. The commencement date for the levy of any tax under this section shall be the first day of January, April, July, or October.

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(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of a county to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a county shall contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer shall distribute monthly to the levying county and cities contained therein the proceeds of the additional excise taxes collected under this section, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b) and under the conditions and limitations provided in RCW 82.80.080.

(8) The proceeds of the additional excise taxes levied under this section shall be used strictly for transportation purposes in accordance with RCW 82.80.070.

(9) A county may not levy the tax under this section if they are levying the tax in RCW 82.80.110 or if they are a member of a regional transportation investment district or regional transportation commission levying the tax in RCW 82.80.120.

**Sec. 403.** RCW 82.80.030 and 2005 c 336 s 24 are each amended to read as follows:

(1) Subject to the conditions of this section, the legislative authority of a county, city, regional transportation commission created under section 301 of this act, or district may fix and impose a parking tax on all persons engaged in a commercial parking business within its respective jurisdiction. A city or county may impose the tax only to the extent that it has not been imposed by the district, and a district may impose the tax only to the extent that it has not been imposed by a city or county. The jurisdiction of a county, for purposes of this section, includes only the unincorporated area of the county. The jurisdiction of a city or district includes only the area within its boundaries.

(2) In lieu of the tax in subsection (1) of this section, a city, a county in its unincorporated area, a regional transportation commission, or a district may fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business.

The city, county, regional transportation commission, or district may provide that:

(a) The tax is paid by the operator or owner of the motor vehicle;

(b) The tax applies to all parking for which a fee is paid, whether paid or leased, including parking supplied with a lease of nonresidential space;

(c) The tax is collected by the operator of the facility and remitted to the city, county, regional transportation commission, or district;

(d) The tax is a fee per vehicle or is measured by the parking charge;

(e) The tax rate varies with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the vehicle, or other reasonable factors; and

(f) Tax exempt carpools, vehicles with handicapped decals, or government vehicles are exempt from the tax.

(3) "Commercial parking business" as used in this section, means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged. "Commercial

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parking lot" means a covered or uncovered area with stalls for the purpose of parking motor vehicles.

(4) The rate of the tax under subsection (1) of this section may be based either upon gross proceeds or the number of vehicle stalls available for commercial parking use. The rates charged must be uniform for the same class or type of commercial parking business.

(5) The county, city, regional transportation commission, or district levying the tax provided for in subsection (1) or (2) of this section may provide for its payment on a monthly, quarterly, or annual basis. Each local government may develop by ordinance or resolution rules for administering the tax, including provisions for reporting by commercial parking businesses, collection, and enforcement.

(6) The proceeds of the commercial parking tax fixed and imposed by a city or county under subsection (1) or (2) of this section shall be used for transportation purposes in accordance with RCW 82.80.070 or for transportation improvements in accordance with chapter 36.73 RCW. The proceeds of the parking tax imposed by a district must be used as provided in chapter 36.120 RCW. The proceeds of the parking tax imposed by a regional transportation commission must be used to implement a regional mobility investment plan described under section 305 of this act.

**Sec. 404.** RCW 82.80.100 and 2002 c 56 s 408 are each amended to read as follows:

(1) Upon approval of a majority of the voters within its boundaries voting on the ballot proposition for a regional mobility investment plan or regional transportation investment district, a regional transportation commission or regional transportation investment district may set and impose an annual local option vehicle license fee, or a schedule of fees based upon the age of the vehicle, of up to one hundred dollars per motor vehicle registered within the boundaries of the (region) commission or district on every motor vehicle. As used in this section "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010. Vehicles registered under chapter 46.87 RCW and the international registration plan are exempt from the annual local option vehicle license fee set forth in this section. The department of licensing shall administer and collect this fee on behalf of regional transportation commissions or regional transportation investment districts and remit this fee to the custody of the state treasurer for monthly distribution under RCW 82.80.080.

(2) The local option vehicle license fee applies only when renewing a vehicle registration, and is effective upon the registration renewal date as provided by the department of licensing.

(3) A regional transportation commission or regional transportation investment district imposing the local option vehicle license fee or initiating an exemption process shall enter into a contract with the department of licensing. The contract must contain provisions that fully recover the costs to the department of licensing for collection and administration of the fee.

(4) A regional transportation commission or regional transportation investment district imposing the local option fee shall delay the effective date of the local option vehicle license fee imposed by this section at least six months from the date of the final certification of the approval election to allow the department of licensing to implement the administration and collection of or exemption from the fee.

**Sec. 405.** RCW 82.80.110 and 2003 c 350 s 2 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and

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special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030.

(2) For purposes of dedication to a regional transportation investment district plan under chapter 36.120 RCW, subject to the conditions of this section, a county may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the county. The additional excise tax is subject to the approval of the county's legislative body and a majority of the registered voters of the county voting on the proposition at a general or special election. An election held under this section must be held not more than twelve months before the date on which the proposed tax is to be levied. The ballot setting forth the proposition must state that the revenues from the tax will be used for a regional transportation investment district plan. The county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the county fuel excise tax. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax may not be levied less than one month from the date the election results are certified by the county election officer. The commencement date for the levy of any tax under this section will be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of a county to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a county shall contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer shall distribute monthly to the county levying the tax as part of a regional transportation investment plan, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a county in this section, to be used as a part of a regional transportation investment plan, must be used in accordance with chapter 36.120 RCW, but only for those areas that are considered "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(9) A county may not levy the tax under this section if they are a member of a regional transportation investment district or regional transportation commission that is levying the tax in RCW 82.80.120 or the county is levying the tax in RCW 82.80.010.

**Sec. 406.** RCW 82.80.120 and 2006 c 311 s 18 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and

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special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030;

(c) "District" means a regional transportation investment district under chapter 36.120 RCW;

(d) "Commission" means a regional transportation commission as defined in section 201 of this act.

(2) A commission under chapter 36.-- RCW (as created in section 805 of this act) or regional transportation investment district under chapter 36.120 RCW, subject to the conditions of this section, may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the commission or district. The additional excise tax is subject to the approval of a majority of the voters within the commission or district boundaries. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the commission or district's fuel excise tax. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax may not be levied less than one month from the date the election results are certified. The commencement date for the levy of any tax under this section will be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of the commission or district to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a commission or district shall contract with the department of ~~((licensing))~~ revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of ~~((licensing))~~ revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer shall distribute monthly to the commission or district levying the tax as part of the regional mobility investment plan or regional transportation investment district plan, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a commission or district in this section, to be used as a part of a regional mobility investment plan or regional transportation investment district plan, must be used in accordance with chapter 36.-- RCW (as created in section 805 of this act), or chapter 36.120 RCW, respectively, but only for those areas that are considered "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(9) A district or commission may only levy the tax under this section if the district or commission is comprised of boundaries identical to the boundaries of a county or counties. A district or commission may not levy the tax in this section if a member county is levying the tax in RCW 82.80.010 or 82.80.110.

**Sec. 407.** RCW 81.100.030 and 2002 c 56 s 410 are each amended to read as follows:

(1) A county with a population of one million or more, or a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, and having within its

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boundaries existing or planned high-occupancy vehicle lanes on the state highway system, a regional transportation commission, or a regional transportation investment district for capital improvements, ~~((but only to the extent that the tax has not already been imposed by the county.))~~ may, with voter approval impose an excise tax of up to two dollars per employee per month on all employers or any class or classes of employers, public and private, including the state located in the agency's jurisdiction, measured by the number of full-time equivalent employees. In no event may the total taxes imposed under this section exceed two dollars per employee per month for any single employer. The county, regional transportation commission, or investment district imposing the tax authorized in this section may provide for exemptions from the tax to such educational, cultural, health, charitable, or religious organizations as it deems appropriate.

Counties, regional transportation commissions, or investment districts may contract with the state department of revenue or other appropriate entities for administration and collection of the tax. Such contract shall provide for deduction of an amount for administration and collection expenses.

(2) The tax shall not apply to employment of a person when the employer has paid for at least half of the cost of a transit pass issued by a transit agency for that employee, valid for the period for which the tax would otherwise be owed.

(3) A county, regional transportation commission, or investment district shall adopt rules that exempt from all or a portion of the tax any employer that has entered into an agreement with the county, regional transportation commission, or investment district that is designed to reduce the proportion of employees who drive in single-occupant vehicles during peak commuting periods in proportion to the degree that the agreement is designed to meet the goals for the employer's location adopted under RCW 81.100.040.

The agreement shall include a list of specific actions that the employer will undertake to be entitled to the exemption. Employers having an exemption from all or part of the tax through this subsection shall annually certify to the county, regional transportation commission, or investment district that the employer is fulfilling the terms of the agreement. The exemption continues as long as the employer is in compliance with the agreement.

~~((If the tax authorized in RCW 81.100.060 is also imposed, the total proceeds from both tax sources each year shall not exceed the maximum amount which could be collected under RCW 81.100.060.))~~

**Sec. 408.** RCW 81.100.060 and 2006 c 318 s 2 and 2006 c 311 s 15 are each reenacted and amended to read as follows:

(1) A county with a population of one million or more and a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, having within their boundaries existing or planned high-occupancy vehicle lanes on the state highway system, a regional transportation commission, or a regional transportation investment district, ~~((but only to the extent that the surcharge has not already been imposed by the county.))~~ may, with voter approval, impose a local surcharge of not more than three-tenths of one percent in the case of a county, or eight-tenths of one percent in the case of a regional transportation commission or regional transportation investment district, of the value on vehicles registered to a person residing within the county, regional transportation commission, or investment district and not more than 13.64 percent on the state sales and use taxes paid under the rate in RCW 82.08.020(2) on retail car rentals within the county, regional transportation commission, or investment district. A county may impose the surcharge only to the extent that it has not been imposed by the regional transportation commission or investment district. No surcharge may be imposed on vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six

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thousand pounds or less, RCW 46.16.079, 46.16.085, or 46.16.090.

(2) Counties, regional transportation commissions, or investment districts imposing a surcharge under this section shall contract, before the effective date of the resolution or ordinance imposing a surcharge, administration and collection to the state department of licensing, and department of revenue, as appropriate, which shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes, for administration and collection expenses incurred by the department.

(3) All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW shall, insofar as they are applicable to state sales and use taxes, be applicable to surcharges imposed under this section.

(4) If a surcharge, authorized under this section, is first imposed before June 7, 2006, all administrative provisions in chapters 82.03, 82.32, and 82.44 RCW shall, insofar as they are applicable to motor vehicle excise taxes, be applicable to such surcharges ((imposed under this section)). ((All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW shall, insofar as they are applicable to state sales and use taxes, be applicable to surcharges imposed under this section. A surcharge imposed under this section, or a change to the))

(5) If a surcharge, authorized under this section, is first imposed on or after June 7, 2006:

(a) Motor vehicles subject to such surcharge shall be administered in accordance with chapter 318, Laws of 2006; and

(b) The surcharge or a change to the surcharge shall take effect no sooner than seventy-five days after the department of licensing or the department of revenue receives notice of the surcharge or change to the surcharge, and shall take effect only on the first day of January, April, July, or October. Unless waived by the department of licensing or the department of revenue, notice includes providing the appropriate department with digital mapping and legal descriptions of areas in which the ((tax)) surcharge will be collected.

((If the tax authorized in RCW 81.100.030 is also imposed, the total proceeds from tax sources imposed under this section and RCW 81.100.030 each year shall not exceed the maximum amount which could be collected under this section.))

**Sec. 409.** RCW 47.56.075 and 2002 c 56 s 404 are each amended to read as follows:

The department shall approve for construction only such toll roads as the legislature specifically authorizes or such toll facilities as are specifically sponsored by a regional transportation investment district, regional transportation commission, city, town, or county.

**Sec. 410.** RCW 82.32.470 and 2002 c 56 s 407 are each amended to read as follows:

(1) The tax imposed and collected under chapters 82.08 and 82.12 RCW, less any credits allowed under chapter 82.14 RCW, on initial construction for a transportation project to be constructed under chapter 36.120 RCW, or for a mobility project of regional significance to be constructed under chapter 36.-- RCW (as created in section 805 of this act), must be transferred to the transportation project or the mobility project of regional significance to defray costs or pay debt service on that ((transportation)) project. In the case of a toll project, this transfer or credit must be used to lower the overall cost of the project and thereby the corresponding tolls.

(2) This transaction is exempt from the requirements in RCW 43.135.035(4).

(3) Government entities constructing transportation projects under chapter 36.120 RCW, or mobility projects of regional significance under chapter 36.-- RCW (as created in section 805 of this act), shall report to the department the amount of state sales or use tax covered under this section.

**Sec. 411.** RCW 82.14.050 and 2005 c 336 s 20 are each amended to read as follows:

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The counties, cities, and transportation authorities under RCW 82.14.045, public facilities districts under chapters 36.100 and 35.57 RCW, public transportation benefit areas under RCW 82.14.440, regional transportation commissions, regional transportation investment districts, and transportation benefit districts under chapter 36.73 RCW shall contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter that is collected by the department of revenue shall be deposited by the state department of revenue in the local sales and use tax account hereby created in the state treasury. Moneys in the local sales and use tax account may be spent only for distribution to counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation commissions, regional transportation investment districts, and transportation benefit districts imposing a sales and use tax. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, shall, insofar as they are applicable to state sales and use taxes, be applicable to taxes imposed pursuant to this chapter. Counties, cities, transportation authorities, public facilities districts, regional transportation commissions, and regional transportation investment districts may not conduct independent sales or use tax audits of sellers registered under the streamlined sales tax agreement. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local sales and use tax account shall be credited to the local sales and use tax account and distributed to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation commissions, regional transportation investment districts, and transportation benefit districts monthly.

**Sec. 412.** RCW 82.80.080 and 2002 c 56 s 414 are each amended to read as follows:

(1) The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in RCW 82.80.010 ((and 82.80.020)), levied by counties to the levying counties, and cities contained in those counties, based on the relative per capita population. County population for purposes of this section is equal to one and one-half of the unincorporated population of the county. In calculating the distributions, the state treasurer shall use the population estimates prepared by the state office of financial management and shall further calculate the distribution based on information supplied by the departments of licensing and revenue, as appropriate.

(2) The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in RCW 82.80.010 ((and 82.80.020)) levied by qualifying cities and towns to the levying cities and towns.

(3) The state treasurer shall distribute to the district or regional transportation commission, as appropriate, revenues, less authorized deductions, generated by the local option taxes under RCW 82.80.010 or fees under RCW 82.80.100 levied by a district or regional transportation commission.

## PART V AUTHORITY TO ISSUE BONDS

**NEW SECTION. Sec. 501.** COMMISSION TO ISSUE GENERAL OBLIGATION BONDS. In addition to any other authority provided by law, and subject to applicable constitutional limitations, a regional transportation commission may issue general obligation bonds or other evidences of indebtedness for public transportation and mobility project capital purposes. However, the general indebtedness incurred under this section when considered together with all the other



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outstanding general indebtedness of the regional transportation commission shall not exceed one and one-half percent of taxable property within its boundaries without the approval of three-fifths of the voters therein voting at an election held for that purpose, and in cases requiring such approval, not exceeding a total of five percent of taxable property within its boundaries. The bonds shall be issued and sold in accordance with chapter 39.46 RCW, and may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

Any regional transportation commission may pledge any portion of any taxes and any tolls, charges, or user taxes authorized to be levied or imposed by the commission for the payment or security of the principal of and interest on any bonds issued for authorized public transportation purposes.

**NEW SECTION. Sec. 502.** (1) The commission may at any time borrow money for public transportation and mobility project capital purposes and may issue revenue bonds or other evidences of indebtedness, secured by the pledge of one or more of the taxes, tolls, charges, or user fees authorized to be imposed by the commission. These obligations shall be issued and sold in accordance with chapter 39.46 RCW.

(2) The commission may enter into agreements with public transportation agencies, counties, cities, or the state of Washington, when authorized by the plan, to pledge taxes or other revenues of the commission for the purpose of paying in part or whole principal and interest on bonds issued by any public transportation agency, county, city, or by the state of Washington. The agreements pledging revenues and taxes shall be binding for their terms, but not to exceed forty years, and no tax pledged by an agreement may be eliminated or modified if it would impair the pledge made in any agreement.

#### **PART VI RTC AND RTID MUTUALLY EXCLUSIVE**

**NEW SECTION. Sec. 601.** If a regional transportation commission, created under section 301 of this act, is fully constituted and authorized to exercise its powers as prescribed in section 301(2) of this act within a geographic area that includes an existing regional transportation investment district, that district dissolves upon the exercise of the commission's powers, and all the obligations of the district and governing board must be transferred to the regional transportation commission as successor to the district. Additionally, the commission, without the need for additional voter approval, shall adopt the regional transportation investment district voter-approved plan as part of the commission's regional mobility investment plan.

#### **PART VII 2007 RTA BALLOT MEASURES**

**Sec. 701.** RCW 81.112.030 and 2006 c 311 s 12 are each amended to read as follows:

Two or more contiguous counties each having a population of four hundred thousand persons or more may establish a regional transit authority to develop and operate a high capacity transportation system as defined in chapter 81.104 RCW.

The authority shall be formed in the following manner:

(1) The joint regional policy committee created pursuant to RCW 81.104.040 shall adopt a system and financing plan, including the definition of the service area. This action shall be completed by September 1, 1992, contingent upon satisfactory completion of the planning process defined in RCW 81.104.100. The final system plan shall be adopted no later than June 30, 1993. In addition to the requirements of RCW 81.104.100, the plan for the proposed system shall provide explicitly for a minimum portion of new tax revenues to be allocated to local transit agencies for interim express services. Upon adoption the joint regional policy committee shall immediately transmit the

plan to the county legislative authorities within the adopted service area.

(2) The legislative authorities of the counties within the service area shall decide by resolution whether to participate in the authority. This action shall be completed within forty-five days following receipt of the adopted plan or by August 13, 1993, whichever comes first.

(3) Each county that chooses to participate in the authority shall appoint its board members as set forth in RCW 81.112.040 and shall submit its list of members to the secretary of the Washington state department of transportation. These actions must be completed within thirty days following each county's decision to participate in the authority.

(4) The secretary shall call the first meeting of the authority, to be held within thirty days following receipt of the appointments. At its first meeting, the authority shall elect officers and provide for the adoption of rules and other operating procedures.

(5) The authority is formally constituted at its first meeting and the board shall begin taking steps toward implementation of the system and financing plan adopted by the joint regional policy committee. If the joint regional policy committee fails to adopt a plan by June 30, 1993, the authority shall proceed to do so based on the work completed by that date by the joint regional policy committee. Upon formation of the authority, the joint regional policy committee shall cease to exist. The authority may make minor modifications to the plan as deemed necessary and shall at a minimum review local transit agencies' plans to ensure feeder service/high capacity transit service integration, ensure fare integration, and ensure avoidance of parallel competitive services. The authority shall also conduct a minimum thirty-day public comment period.

(6) If the authority determines that major modifications to the plan are necessary before the initial ballot proposition is submitted to the voters, the authority may make those modifications with a favorable vote of two-thirds of the entire membership. Any such modification shall be subject to the review process set forth in RCW 81.104.110. The modified plan shall be transmitted to the legislative authorities of the participating counties. The legislative authorities shall have forty-five days following receipt to act by motion or ordinance to confirm or rescind their continued participation in the authority.

(7) If any county opts to not participate in the authority, but two or more contiguous counties do choose to continue to participate, the authority's board shall be revised accordingly. The authority shall, within forty-five days, redefine the system and financing plan to reflect elimination of one or more counties, and submit the redefined plan to the legislative authorities of the remaining counties for their decision as to whether to continue to participate. This action shall be completed within forty-five days following receipt of the redefined plan.

(8) The authority shall place on the ballot within two years of the authority's formation, a single ballot proposition to authorize the imposition of taxes to support the implementation of an appropriate phase of the plan within its service area. In addition to the system plan requirements contained in RCW 81.104.100(2)(d), the system plan approved by the authority's board before the submittal of a proposition to the voters shall contain an equity element which:

(a) Identifies revenues anticipated to be generated by corridor and by county within the authority's boundaries;

(b) Identifies the phasing of construction and operation of high capacity system facilities, services, and benefits in each corridor. Phasing decisions should give priority to jurisdictions which have adopted transit-supportive land use plans; and

(c) Identifies the degree to which revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue.



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A simple majority of those voting within the boundaries of the authority is required for approval. If the vote is affirmative, the authority shall begin implementation of the projects identified in the proposition. However, the authority may not submit any authorizing proposition for voter-approved taxes prior to July 1, 1993; nor may the authority issue bonds or form any local improvement district prior to July 1, 1993.

(9) If the vote on a proposition fails, the board may redefine the proposition, make changes to the authority boundaries, and make corresponding changes to the composition of the board. If the composition of the board is changed, the participating counties shall revise the membership of the board accordingly. The board may then submit the revised proposition or a different proposition to the voters. No single proposition may be submitted to the voters more than twice. Beginning no sooner than the 2007 general election, the authority may place additional propositions on the ballot to impose taxes to support additional phases of plan implementation.

(10) In conjunction with RCW 36.120.070, at the 2007 general election the authority shall submit a proposition to support additional implementation phases of the authority's system and financing plan on the same ballot along with a regional transportation investment plan developed under chapter 36.120 RCW. The proposition shall not be considered approved unless voters also approve the regional transportation investment plan.

(11) A regional transit authority shall submit additional phases of plan implementation ((may include a transportation subarea equity element which (a) identifies the combined authority and regional transportation investment district revenues anticipated to be generated by corridor and by county within the authority's boundaries, and (b) identifies the degree to which the combined authority and regional transportation investment district revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue. For purposes of the transportation subarea equity principle established under this subsection, the authority may use the five subareas within the authority's boundaries as identified in the authority's system plan adopted in May 1996)) to the regional transportation commission, if fully constituted and authorized to exercise its powers as prescribed in section 301(2) of this act within the authority's geographic area, for inclusion in the regional mobility investment plan for voter approval under section 305(2) of this act.

(12) If the authority is unable to achieve a positive vote on a proposition within two years from the date of the first election on a proposition, the board may, by resolution, reconstitute the authority as a single-county body. With a two-thirds vote of the entire membership of the voting members, the board may also dissolve the authority.

### PART VIII MISCELLANEOUS

**NEW SECTION. Sec. 801.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2008, only if a regional transportation investment district has not been formed under chapter 36.120 RCW by January 1, 2008, or effective January 1, 2009, if a regional transportation investment district has been formed by January 1, 2008:

- (1) RCW 36.120.010 (Findings) and 2002 c 56 s 101;
- (2) RCW 36.120.020 (Definitions) and 2006 c 334 s 13, 2006 c 311 s 4, & 2002 c 56 s 102;
- (3) RCW 36.120.030 (Planning committee--Formation) and 2006 c 311 s 5 & 2002 c 56 s 103;
- (4) RCW 36.120.040 (Planning committee--Duties) and 2006 c 311 s 6, 2003 c 194 s 1, & 2002 c 56 s 104;
- (5) RCW 36.120.045 (Planning committee--State route No. 520 improvements) and 2006 c 311 s 7;

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- (6) RCW 36.120.050 (Planning committee--Taxes, fees, and tolls) and 2006 c 311 s 13, 2003 c 350 s 4, & 2002 c 56 s 105;
- (7) RCW 36.120.060 (Project selection--Performance criteria) and 2002 c 56 s 106;
- (8) RCW 36.120.070 (Submission of ballot measures to the voters) and 2006 c 311 s 8 & 2002 c 56 s 107;
- (9) RCW 36.120.080 (Formation--Certification) and 2006 c 311 s 10 & 2002 c 56 s 108;
- (10) RCW 36.120.090 (Governing board--Composition) and 2002 c 56 s 109;
- (11) RCW 36.120.100 (Governing board--Organization) and 2002 c 56 s 110;
- (12) RCW 36.120.110 (Governing board--Powers and duties--Intent) and 2006 c 311 s 11 & 2002 c 56 s 111;
- (13) RCW 36.120.120 (Treasurer) and 2002 c 56 s 112;
- (14) RCW 36.120.130 (Indebtedness--Bonds--Limitation) and 2003 c 372 s 1 & 2002 c 56 s 113;
- (15) RCW 36.120.140 (Transportation project or plan modification--Accountability) and 2003 c 194 s 2 & 2002 c 56 s 114;
- (16) RCW 36.120.150 (Department of transportation--Role) and 2002 c 56 s 115;
- (17) RCW 36.120.160 (Ownership of improvements) and 2002 c 56 s 116;
- (18) RCW 36.120.170 (Dissolution of district) and 2002 c 56 s 117;
- (19) RCW 36.120.180 (Findings--Regional models--Grants) and 2002 c 56 s 118;
- (20) RCW 36.120.190 (Joint ballot measure) and 2002 c 56 s 201;
- (21) RCW 36.120.200 (Regional transportation investment district account) and 2002 c 56 s 401;
- (22) RCW 36.120.210 (Advisory ballot for Alaskan Way viaduct improvements--Preferred alternative for Alaskan Way viaduct and Seattle Seawall improvements) and 2006 c 311 s 29;
- (23) RCW 36.120.900 (Captions and subheadings not law--2002 c 56) and 2002 c 56 s 501; and
- (24) RCW 36.120.901 (Severability--2002 c 56) and 2002 c 56 s 503.

**NEW SECTION. Sec. 802.** RCW 82.44.135 (Local government must contract with department of licensing) and 2006 c 318 s 9 are each repealed.

**NEW SECTION. Sec. 803. APPLICABILITY OF PUBLIC LAWS.** A regional transportation commission, its officers, and the governing body of commissioners, created under this act, are subject to the general laws regulating local governments and local governmental officials including, but not limited to, applicable requirements under chapters 42.17, 42.23, 42.30, 42.41, and 43.09 RCW.

**NEW SECTION. Sec. 804.** Part headings and captions used in this act are not any part of the law.

**NEW SECTION. Sec. 805.** Sections 101, 201, 301 through 310, 501, 502, and 601 of this act constitute a new chapter in Title 36 RCW.

**NEW SECTION. Sec. 806.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 807.** This act shall be liberally construed to effect the policies and purposes of this act."

### PARLIAMENTARY INQUIRY

Senator Benton: "I'm looking at list number two. We didn't finish list number two before we went to caucus and I think a couple of members of our caucus had some amendments to this bill and so I think we're a little surprised that it came up this soon after lunch. If it's alright, we'd like to have some time to put some amendments on this bill."

MOTION

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On motion of Senator Eide, further consideration of Substitute Senate Bill No. 5803 was deferred and the bill held its place on the second reading calendar.

## SECOND READING

SENATE BILL NO. 6129, by Senators Murray and Haugen

Providing additional funding for the state patrol highway account.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 6129 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6129.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6129 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Honeyford - 1

SENATE BILL NO. 6129, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5937, by Senators Haugen, Swecker, Murray and Kauffman

Providing for additional patrols along high-accident corridors.

## MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5937 was substituted for Senate Bill No. 5937 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5937 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

## POINT OF INQUIRY

Senator Swecker: "Would the good Senator who's just spoke yield to a question? Is that \$10.00 or \$15.00?"

Senator Murray: "I stand corrected, it is from \$5.00 to \$10.00."

Senator Swecker spoke in favor of passage of the bill.

## MOTION

On motion of Senator Regala, Senator Fraser was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5937.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5937 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senators Benton and Holmquist - 2

Excused: Senator Fraser - 1

SUBSTITUTE SENATE BILL NO. 5937, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1417, by House Committee on Appropriations (originally sponsored by Representatives Lovick, Roach, Simpson, Hurst, O'Brien, Eddy, Ericks, Eickmeyer, Kelley, VanDeWege, Pedersen, Sells, Hankins, B. Sullivan, Dickerson, Rodne, Springer, Appleton, Rolfes, Hudgins, Pettigrew, Williams, Kessler, Green, Ormsby, P. Sullivan and Santos)

Providing reimbursement for certain Washington state patrol survivor benefits.

The measure was read the second time.

## MOTION

Senator Eide moved that the following committee striking amendment by the Committee on Transportation be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.43.285 and 1996 c 226 s 2 are each amended to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2)(a) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department

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of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(b) The retirement allowance paid to the spouse and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(14), shall include reimbursement for any payments of premium rates to the Washington state health care authority under RCW 41.05.080.

**Sec. 2.** RCW 41.05.011 and 2005 c 143 s 1 are each amended to read as follows:

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

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes: (a) Employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205; (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; and (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350.

(7) "Board" means the public employees' benefits board established under RCW 41.05.055.

(8) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred

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retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(9) "Benefits contribution plan" means a premium only contribution plan, a medical flexible spending arrangement, or a cafeteria plan whereby state and public employees may agree to a contribution to benefit costs which will allow the employee to participate in benefits offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(10) "Salary" means a state employee's monthly salary or wages.

(11) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the benefits contribution plan.

(12) "Plan year" means the time period established by the authority.

(13) "Separated employees" means persons who separate from employment with an employer as defined in:

- (a) RCW 41.32.010(11) on or after July 1, 1996; or
- (b) RCW 41.35.010 on or after September 1, 2000; or
- (c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(40), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(14) "Emergency service personnel killed in the line of duty" means law enforcement officers and fire fighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and fire fighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(15) "Employer" means the state of Washington.

(16) "Employing agency" means a division, department, or separate agency of state government and a county, municipality, school district, educational service district, or other political subdivision, covered by this chapter.

**Sec. 3.** 2006 c 345 s 2 (unmodified) is amended to read as follows:

This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and except for section 2 of this act takes effect immediately [May 7, 2001]. This act applies to all surviving spouses and dependent children of (1) emergency service personnel ~~((and))~~, (2) members of the law enforcement officers' and fire fighters' retirement system plan 2, and (3) members of the Washington state patrol retirement fund, killed in the line of duty.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.43 RCW to read as follows:

The legislature reserves the right to amend or repeal the reimbursement provisions of this act in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time.

**NEW SECTION. Sec. 5.** This act shall be known as "The Steve Frink's and Jim Saunder's Law" in honor of Steve Frink and Jim Saunders, Washington state patrol officers who were killed in the line of duty."

Senator Eide spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 1417 as amended by the Senate.

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

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## MOTION

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

On page 1, line 1 of the title, after "benefits;" strike the remainder of the title and insert "amending RCW 43.43.285 and 41.05.011; amending 2006 c 345 s 2 (uncodified); adding a new section to chapter 43.43 RCW; and creating a new section."

## MOTION

On motion of Senator Eide, the rules were suspended, Substitute House Bill No. 1417 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Eide spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1417 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1417 as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1417 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5313, by Senators Haugen, Schoesler, Kilmer, Hatfield, Shin and Rasmussen

Establishing the retirement age for members of the Washington state patrol retirement system.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 5313 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5313.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5313 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 5313, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6127, by Senators Spanel, Swecker, Kilmer, Haugen, Marr and Kohl-Welles

Regarding state ferries.

## MOTION

On motion of Senator Spanel, Substitute Senate Bill No. 6127 was substituted for Senate Bill No. 6127 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.06.140 and 1998 c 171 s 7 are each amended to read as follows:

(1) The legislature declares the following transportation facilities and services to be of statewide significance: The interstate highway system, interregional state principal arterials including ferry connections that serve statewide travel, intercity passenger rail services, intercity high-speed ground transportation, major passenger intermodal terminals excluding all airport facilities and services, the freight railroad system, the Columbia/Snake navigable river system, marine port facilities and services that are related solely to marine activities affecting international and interstate trade, and high-capacity transportation systems serving regions as defined in RCW 81.104.015. The department, in cooperation with regional transportation planning organizations, counties, cities, transit agencies, public ports, private railroad operators, and private transportation providers, as appropriate, shall plan for improvements to transportation facilities and services of statewide significance in the statewide multimodal plan. Improvements to facilities and services of statewide significance identified in the statewide multimodal plan are essential state public facilities under RCW 36.70A.200.

(2) The department of transportation, in consultation with local governments, shall set level of service standards for state highways and state ferry routes of statewide significance. Although the department shall consult with local governments when setting level of service standards, the department retains authority to make final decisions regarding level of service standards for state highways and state ferry routes of statewide significance. In establishing level of service standards for state highways and state ferry routes of statewide significance, the department shall consider the necessary balance between providing for the free interjurisdictional movement of people and goods and the needs of local communities using these facilities. When setting the level of service standards under this

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section for state ferry routes, the department may allow for a standard that is adjustable for seasonality.

**NEW SECTION, Sec. 2.** A new section is added to chapter 47.60 RCW to read as follows:

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

(1) "Capital plan" means the state ferry system plan as described in RCW 47.06.050(2) and adopted by the commission.

(2) "Capital project" has the same meaning as used in capital budget instructions developed by the office of financial management.

(3) "Commission" means the transportation commission created in RCW 47.01.051.

(4) "Improvement project" has the same meaning as in the capital budget instructions developed by the office of financial management. If the capital budget instructions do not define improvement project, then it has the same meaning as "program project" in the capital budget instructions. If a project meets both the improvement project and preservation project definitions in this section it must be defined as an improvement project. New vessel acquisitions must be defined as improvement projects.

(5) "Life-cycle cost model" means that portion of a capital asset inventory system which, among other things, is used to estimate future preservation cost needs.

(6) "Maintenance cost" has the same meaning as used in capital budget instructions developed by the office of financial management.

(7) "Preservation project" has the same meaning as used in capital budget instructions developed by the office of financial management.

(8) "Route" means all ferry sailings from one location to another, such as the Seattle to Bainbridge route or the Port Townsend to Keystone route.

(9) "Sailing" means an individual ferry sailing for a specific route, such as the 5:00 p.m. sailing from Seattle to Bremerton.

(10) "Travel shed" means one or more ferry routes with distinct characteristics as determined by the department.

**NEW SECTION, Sec. 3.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The commission shall, with the involvement of the department, conduct a market survey to gather data on ferry users to help inform level of service, operational, pricing, planning, and investment decisions. The survey must include, but is not limited to:

- (a) Recreational use;
- (b) Vehicle customer use;
- (c) Freight and goods movement demand; and
- (d) Reactions to potential operational and pricing strategies described under section 4 of this act and RCW 47.60.290.

(2) The survey must be developed with input from ferry advisory committees.

(3) The market survey must be updated at least every two years.

**NEW SECTION, Sec. 4.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The department shall develop, and the commission shall review, operational strategies to ensure existing assets are fully utilized and to guide future investment decisions. These operational strategies must, at a minimum:

(a) Recognize that each travel shed is unique and should be evaluated separately;

(b) Use data from the current market survey conducted under section 3 of this act;

(c) Be consistent with vehicle level of service standards;

(d) Use a life-cycle cost analysis that considers capital and operating costs and the most efficient balance between these costs; and

(e) Use methods of collecting fares that maximize efficiency and achieve revenue management control.

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(2) In developing operational strategies, the following, at a minimum, must be considered:

(a) The feasibility of using reservation systems;

(b) Methods of shifting vehicular traffic to other modes of transportation;

(c) Methods of improving on-dock operations to maximize efficiency and minimize operating and capital costs;

(d) A cost-benefit analysis of remote holding versus over-water holding;

(e) Methods of reorganizing holding areas and minimizing on-dock employee parking to maximize dock size available for customer vehicles;

(f) Schedule modifications;

(g) Efficiencies in exit queuing and metering; and

(h) Interoperability with other transportation services.

(3) Operational strategies must be reevaluated periodically, at a minimum, before developing a new capital plan.

**Sec. 5.** RCW 47.60.290 and 1983 c 3 s 136 are each amended to read as follows:

~~(Subject to the provisions of RCW 47.60.326;)~~ (1) The department ~~(is hereby authorized and directed to)~~ shall annually review ~~((tariffs and charges as))~~ fares and pricing strategies applicable to the operation of the Washington state ferries ~~((for the purpose of establishing a more fair and equitable tariff to be charged passengers, vehicles, and commodities on the routes of the Washington state ferries)).~~

(2) Beginning in 2008, the fares and pricing strategies developed by the department must:

(a) Recognize that each travel shed is unique and should be evaluated separately;

(b) Use data from the current market survey conducted under section 3 of this act;

(c) Be developed with input from affected ferry users by public hearing and by review with the affected ferry advisory committees, in addition to the data gathered from the market survey conducted in section 3 of this act;

(d) Generate the amount of revenue required by the biennial transportation budget; and

(e) Keep fare schedules as simple as possible.

(3) The fares and pricing strategies developed by the department must consider the following:

(a) Options for using pricing to level vehicle peak demand; and

(b) Options for using pricing to increase off-peak ridership.

(4) Fares and pricing strategies must be adopted by rule, under chapter 34.05 RCW, by the commission, according to the following schedule:

(a) Each year the department shall provide the commission a report of its review of fares and pricing strategies, with recommendations for the revision of fares for the ensuing year;

(b) In October of each year, beginning in 2008, the commission shall adopt by rule fares and pricing policies for the ensuing year. The schedule may initially be adopted as an emergency rule if necessary to take effect in, or as near as possible to, the month of October.

(5) The commission may adopt by rule fares that are effective for more or less than one year for the purposes of transitioning to the fare schedule in subsection (4) of this section.

(6) The commission may increase ferry tolls included in the schedule of charges adopted under this section by a percentage that exceeds the fiscal growth factor.

(7) Using sound business judgment, the chief executive officer of the ferry system may authorize the use of promotional, discounted, and special event fares to the general public and commercial enterprises for the purpose of maximizing capacity use and the revenues collected by the ferry system. The department shall report to the commission a summary of the promotional, discounted, and special event fares offered during each fiscal year and the financial results from these activities.

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(8) Fare revenues and other revenues deposited in the Puget Sound ferry operations account created in RCW 47.60.530 may not be used to support the Puget Sound capital construction account created in RCW 47.60.505, unless the support for capital is separately identified in the fare.

**Sec. 6.** RCW 47.60.330 and 2003 c 374 s 5 are each amended to read as follows:

(1) Before a substantial change to the service levels provided to ferry users, the department shall consult with affected ferry users by public hearing and by review with the affected ferry advisory committees.

(2) Before ((a substantial expansion or curtailment in the level of service provided to ferry users, or a revision in the schedule of ferry tolls or charges)) adding or eliminating a ferry route, the department ((of transportation)) shall consult with affected ferry users and receive legislative approval. ((The consultation shall be: (a) By public hearing in affected local communities; (b) by review with the affected ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting a survey of affected ferry users; or (d) by any combination of (a) through (c).

~~—Promotional, discount, and special event fares that are not part of the published schedule of ferry charges or tolls are exempt. The department shall report an accounting of all exempt revenues to the transportation commission each fiscal year.~~

~~(2) There is created a ferry system productivity council consisting of a representative of each ferry advisory committee empanelled under RCW 47.60.310, elected by the members thereof, and two representatives of employees of the ferry system appointed by mutual agreement of all of the unions representing ferry employees, which shall meet from time to time with ferry system management to discuss means of improving ferry system productivity.~~

~~(3) Before increasing ferry tolls the department of transportation shall consider all possible cost reductions with full public participation as provided in subsection (1) of this section and, consistent with public policy, shall consider adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage. Forecasts of traffic levels shall be developed by the bond covenant traffic engineering firm appointed under the provisions of RCW 47.60.450. Provisions of this section shall not alter obligations under RCW 47.60.450. Before including any toll increase in a budget proposal by the commission, the department of transportation shall consult with affected ferry users in the manner prescribed in (1)(b) of this section plus the procedure of either (1)(a) or (c) of this section.)~~

**NEW SECTION. Sec. 7.** A new section is added to chapter 47.60 RCW to read as follows:

(1) Appropriations made for the Washington state ferries capital program may not be used for maintenance costs.

(2) Systemwide and administrative capital program costs shall be allocated to specific capital projects using a cost allocation plan developed by the department. Systemwide and administrative capital program costs shall be identifiable.

**NEW SECTION. Sec. 8.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The department shall maintain a life-cycle cost model on capital assets such that:

(a) Available industry standards are used for estimating the life of an asset, or department-adopted standard life cycles are used when industry standards are not available;

(b) Standard estimated life is adjusted for asset condition when inspections are made; and

(c) It does not include utilities or other systems that are not replaced on a standard life cycle.

(2) All assets in the life-cycle cost model must be inspected and updated in the life-cycle cost model for asset condition at least every three years.

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(3) The life-cycle cost model shall be used in estimating future system preservation costs.

(4) Preservation funding requests shall only be for items in the life-cycle cost model.

(5) Preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study that includes all elements required in the office of financial management's predesign manual.

(6) Appropriations made for preservation projects shall be spent only on preservation projects when warranted by the asset condition.

**NEW SECTION. Sec. 9.** A new section is added to chapter 47.60 RCW to read as follows:

The department shall develop terminal design standards that adhere to the following:

(1) Vehicle level of service standards as described in RCW 47.06.140;

(2) Operational strategies as described in section 4 of this act;

(3) Pricing strategies as described in RCW 47.60.290;

(4) Life-cycle costs and the most efficient balance between capital and operating investments are chosen; and

(5) A recognition that each travel shed is unique and should be evaluated separately.

**NEW SECTION. Sec. 10.** A new section is added to chapter 47.60 RCW to read as follows:

The capital plan must adhere to the following:

(1) A current ridership demand forecast;

(2) Vehicle level of service standards as described in RCW 47.06.140;

(3) Operational strategies as described in section 4 of this act;

(4) Pricing strategies as described in RCW 47.60.290; and

(5) Terminal design standards as described in section 9 of this act.

**NEW SECTION. Sec. 11.** A new section is added to chapter 47.60 RCW to read as follows:

(1) Terminal improvement project funding requests for design and construction work must adhere to the capital plan.

(2) Terminal improvement funding requests for design and construction work must be submitted with a predesign study that includes all elements required in the office of financial management's predesign manual.

(3) The predesign study must also:

(a) Separately identify basic terminal elements essential for operation and their costs;

(b) Separately identify additional elements to provide ancillary revenue and customer comfort and their costs;

(c) Include construction phasing options that fit with forecasted ridership increases;

(d) Identify additional elements requested by local governments and the cost and proposed funding source of those elements;

(e) Identify multimodal elements and the cost and proposed funding source of those elements; and

(f) Identify all contingency amounts.

**NEW SECTION. Sec. 12.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The joint legislative audit and review committee shall assess and report as follows:

(a) Audit the implementation of the cost allocation methodology evaluated under chapter . . . (House Bill No. 1094), Laws of 2007, as it exists on the effective date of this section, assessing whether actual costs are allocated consistently with the methodology, whether there are sufficient internal controls to ensure proper allocation, and the adequacy of staff training; and

(b) Review the assignment of preservation costs and improvement costs for fiscal year 2009 to determine whether:

(i) The costs are capital costs;

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(ii) The costs meet the statutory requirements for preservation activities and for improvement activities; and

(iii) Improvement costs are within the scope of legislative appropriations.

(2) The report on the evaluations in this section is due by January 31, 2010.

(3) This section expires December 31, 2010.

**NEW SECTION. Sec. 13.** (1) The joint transportation committee shall participate in and provide an independent review of (a) through (f) of this subsection. In addition to committee members, or their designees, the governor shall appoint a representative for this review. The committee may also appoint other persons to assist in this review.

(a) Development and interpretation of the market survey of ferry customers described in section 3 of this act;

(b) Analysis and reestablishment of vehicle level of service standards as described in RCW 47.06.140. In reestablishing the standards, consideration shall be given to whether boat wait is the appropriate measure;

(c) Development of operational strategies as described in section 4 of this act;

(d) Development of pricing strategies as described in RCW 47.60.290. In developing these strategies, the one-way fare policy in effect on some routes shall be evaluated;

(e) Development of terminal design standards as described in section 9 of this act; and

(f) Development of a long-range capital plan as described in section 10 of this act.

(2) This section expires June 30, 2009.

**NEW SECTION. Sec. 14.** The following acts or parts of acts are each repealed:

(1) RCW 47.60.150 (Fixing of charges--Deposit of revenues) and 2003 c 374 s 3, 1999 c 94 s 26, & 1990 c 42 s 405; and

(2) RCW 47.60.326 (Schedule of charges for state ferries--Review by department, factors considered--Rule making by commission) and 2005 c 270 s 1, 2003 c 374 s 4, 2001 1st sp.s. c 1 s 1, 1999 c 94 s 27, 1990 c 42 s 406, 1983 c 15 s 25, & 1981 c 344 s 5."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Spanel and others to Substitute Senate Bill No. 6127.

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

MOTION

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

On page 1, line 1 of the title, after "ferries;" strike the remainder of the title and insert "amending RCW 47.06.140, 47.60.290, and 47.60.330; adding new sections to chapter 47.60 RCW; creating a new section; repealing RCW 47.60.150 and 47.60.326; and providing expiration dates."

MOTION

On motion of Senator Spanel, the rules were suspended, Engrossed Substitute Senate Bill No. 6127 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Spanel and Swecker spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6127.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6127 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 44

Voting nay: Senators Holmquist, Honeyford, McCaslin, Schoesler and Stevens - 5

ENGROSSED SUBSTITUTE SENATE BILL NO. 6127, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5412, by Senators Murray, Swecker, Marr, Clements and Haugen

Realigning goals and objectives of certain transportation agencies. Revised for 1st Substitute: Clarifying goals, objectives, and responsibilities of certain transportation agencies.

MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5412 was substituted for Senate Bill No. 5412 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5412 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5412.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5412 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE SENATE BILL NO. 5412, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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SENATE BILL NO. 5085, by Senators Haugen, Swecker and Murray

Providing that transportation accounts receive one hundred percent of their proportionate share of earnings.

## MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5085 was substituted for Senate Bill No. 5085 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5085 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5085.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5085 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Fraser - 1

SUBSTITUTE SENATE BILL NO. 5085, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5242, by Senators Hobbs, Hewitt, Haugen, Kastama, Fairley, Shin, Kline, Clements, Kohl-Welles, Keiser, Tom, Brandland, Murray, Roach, Spanel, Kauffman, Rockefeller, Regala, Jacobsen, McAuliffe, Berkey, Carrell, Sheldon, Kilmer, Rasmussen, Holmquist and Honeyford

Establishing an internship program for wounded combat veterans.

## MOTIONS

On motion of Senator Hobbs, Substitute Senate Bill No. 5242 was substituted for Senate Bill No. 5242 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 5242 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and Swecker spoke in favor of passage of the bill.

## POINT OF INQUIRY

Senator Jacobsen: "Would Senator Hobbs yield to a question? I understand this deals with personnel that's been in combat. I understand we have a canine corps in Iraq and if some

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of the dogs came back would they be eligible for a special consideration from the Department of Transportation?"

Senator Hobbs: "We could certainly work on that in future date. Maybe they can enter in bars or something like that."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5242.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5242 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE SENATE BILL NO. 5242, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Substitute Senate Bill No. 5803 which had been deferred earlier in the day.

## MOTION

Senator Benton moved that the following amendment by Senator Benton to the striking amendment be adopted.

On page 4, line 18, after "2009." insert the following: "Election of the commissioners must occur no later than November 30, 2008."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

Senator Murray spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 4, line 18 to the striking amendment to Substitute Senate Bill No. 5803.

The motion by Senator Benton failed and the amendment to the striking amendment was not adopted by a rising voice vote.

## MOTION

Senator Kilmer moved that the following amendment by Senator Kilmer to the striking amendment be adopted.

On page 4, line 34, after "47.46 RCW", insert ", and any marine island in that county adjacent to that peninsula"

Senators Kilmer and Murray spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kilmer on page 4,



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line 34 to the striking amendment to Substitute Senate Bill No. 5803.

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

#### MOTION

Senator Benton moved that the following amendment by Senator Benton to the striking amendment be adopted.

On page 11, line 34, after "receive", strike "unanimous approval" and insert "approval by two-thirds"

On page 12, line 7, after "to", strike "unanimous approval" and insert "approval by two-thirds"

Renumber the sections consecutively and correct any internal references accordingly.

Senators Benton and Jacobsen spoke in favor of adoption of the amendment to the striking amendment.

Senators Murray and Kastama spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 11, line 34 to the striking amendment to Substitute Senate Bill No. 5803.

The motion by Senator Benton failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

Senator Clements moved that the following amendment by Senator Clements to the striking amendment be adopted.

On page 13, after line 5, insert the following: "(6) Under no circumstances will cost overruns be the obligation of the state."

On page 38, line 6, after "RCW 39.46.030," insert the following: "Under not circumstances will bonds issued under authority of this act be the obligation of the state."

On page 38, after line 26, insert the following: "(3) Under no circumstances shall any agreement or contract entered into by the commission be the obligation of the state."

Senators Clements and Murray spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Clements on page 13, after line 5 to the striking amendment to Substitute Senate Bill No. 5803.

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

#### MOTION

Senator Carrell moved that the following amendment by Senator Carrell to the striking amendment be adopted.

On page 14, line 7, after "pricing.", insert "This authority shall not include a fee or tax on vehicle miles traveled."

Senators Carrell and Swecker spoke in favor of adoption of the amendment to the striking amendment.

Senators Murray and Haugen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 14,

line 7 to the striking amendment to Substitute Senate Bill No. 5803.

The motion by Senator Carrell failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

Senator Stevens moved that the following amendment by Senator Stevens to the striking amendment be adopted.

On page 18, after line 7, insert the following: (iv) The toll is placed on lanes, roads, or highways that did not previously exist without a toll.

Senator Stevens spoke in favor of adoption of the amendment to the striking amendment.

Senator Haugen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Stevens on page 18, after line 7 to the striking amendment to Substitute Senate Bill No. 5803.

The motion by Senator Stevens failed and the amendment to the striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Murray and others as amended to Substitute Senate Bill No. 5803.

The motion by Senator Murray carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

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

On page 1, line 2 of the title, after "commissions;" strike the remainder of the title and insert "amending RCW 47.80.020, 47.80.060, 81.112.080, 47.56.030, 47.80.040, 82.14.430, 82.80.010, 82.80.030, 82.80.100, 82.80.110, 82.80.120, 81.100.030, 47.56.075, 82.32.470, 82.14.050, 82.80.080, and 81.112.030; reenacting and amending RCW 81.100.060; adding a new section to chapter 47.01 RCW; adding a new chapter to Title 36 RCW; creating new sections; repealing RCW 36.120.010, 36.120.020, 36.120.030, 36.120.040, 36.120.045, 36.120.050, 36.120.060, 36.120.070, 36.120.080, 36.120.090, 36.120.100, 36.120.110, 36.120.120, 36.120.130, 36.120.140, 36.120.150, 36.120.160, 36.120.170, 36.120.180, 36.120.190, 36.120.200, 36.120.210, 36.120.900, 36.120.901, and 82.44.135; and providing an effective date."

#### MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute Senate Bill No. 5803 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Swecker spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Delvin: "Would the member from District Number 43 yield to a question? Thank you. My question is, what happens if the counties refuse to create a commission?"

Senator Murray: "Well, under our constitution, there's little that we can do. I mean, we could consider punitive action but I

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hardly think that's a way to move forward. Under our constitution it really is up to the counties to create this."

Senator Jacobsen spoke against passage of the bill.

Senators Kastama, Morton and Pflug spoke in favor of passage of the bill.

#### MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put was sustained by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5803.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5803 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 14; Absent, 2; Excused, 0.

Voting yea: Senators Berkey, Brandland, Clements, Delvin, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Rockefeller, Schoesler, Sheldon, Spanel, Swecker, Tom, Weinstein and Zarelli - 33

Voting nay: Senators Benton, Carrell, Eide, Holmquist, Jacobsen, Kauffman, Keiser, Kilmer, McCaslin, Poulsen, Regala, Roach, Shin and Stevens - 14

Absent: Senators Brown and Hargrove - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5803, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5250, by Senators Swecker, Haugen, Kilmer, Kline, Rockefeller and Shin

Creating an alternative method to transfer motor vehicle ownership. Revised for 1st Substitute: Regarding the transfer of motor vehicle ownership.

#### MOTIONS

On motion of Senator Swecker, Substitute Senate Bill No. 5250 was substituted for Senate Bill No. 5250 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 5250 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Kline was excused.

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5250.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5250 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Kline - 1

SUBSTITUTE SENATE BILL NO. 5250, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5134, by Senators Haugen, Swecker, Rasmussen and Delvin

Authorizing police officers to impound vehicles operated by drivers without specially endorsed licenses.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 5134 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

Senators Honeyford and Benton spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5134.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5134 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, Murray, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker, Tom and Weinstein - 32

Voting nay: Senators Benton, Carrell, Clements, Hatfield, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Oemig, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli - 16

Excused: Senator Kline - 1

SENATE BILL NO. 5134, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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 SECOND READING

SENATE BILL NO. 5188, by Senators Haugen, Jacobsen, Prentice, Fairley, Kline, Marr, Kohl-Welles, Tom, Murray, Keiser and Rasmussen

Establishing a wildlife rehabilitation program.

MOTIONS

On motion of Senator Jacobsen, Second Substitute Senate Bill No. 5188 was substituted for Senate Bill No. 5188 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Second Substitute Senate Bill No. 5188 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen, Haugen and Morton spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

POINT OF ORDER

Senator Benton: "Thank you Mr. President. In the actual language of the bill it says on page 2, line 5, that, an additional fee of \$12.00 shall be charged. \$10.00 from the additional fee shall be deposited into the state wildlife account and \$2.00 of the fee shall be deposited in the wildlife rehabilitation account. My parliamentary inquiry is as follows: You made a ruling just a few days ago pertaining to the restrictions and the difference between fees and taxes. Since this fee will be assessed on the people of this state that purchase personalize license plates not restricted, by the way, to wildlife license plates but personalized license plates. The way the bill reads then that fee will then be used as a general tax, would be used to fund a new wildlife rehabilitation account which is established or created under section 3 of this act. So, my question to you, Mr. President, is this: It is in fact a fee or is it a tax? I believe that it is a tax because the fee is imposed on personalized license plates purchasers yet it is used for a wider, more general purpose that is not connected and there is no nexus, Mr. President, between a license plate fee and the people that have those license plates and how the fee would actually be used. So, does this require a two-thirds vote for passage or simple majority?"

REPLY BY THE PRESIDENT

President Owen: "Senator Benton, you asked two questions; Whether this was a tax and then, the other part of it, which I think is the bottom line of what your point of order is that whether or not this takes two-thirds or majority vote. So that is way I believe the President will present it. That the point of order raised by Senator Benton is to the number of votes necessary to pass this piece of legislation."

Senator Haugen spoke against the motion.

MOTION

On motion of Senator Eide, further consideration of Second Substitute Senate Bill No. 5188 was deferred and the bill held its place on the third reading calendar.

SECOND READING

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SENATE BILL NO. 5208, by Senators Swecker, Marr and Haugen

Regarding bond amounts for certain department of transportation highway construction contracts.

The measure was read the second time.

MOTION

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 5208 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5208.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5208 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 5208, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6099, by Senator Murray

Hiring a mediator to help the department of transportation develop a state route number 520 expansion impact plan.

MOTION

On motion of Senator Murray, Substitute Senate Bill No. 6099 was substituted for Senate Bill No. 6099 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Murray moved that the following striking amendment by Senator Murray be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 47.01 RCW to read as follows:

(1) As soon as practicable after the effective date of this act, and after consulting with the city of Seattle, the department shall hire a mediator, and appropriate planning staff, including urban, transportation, and neighborhood planners, to assist the department in developing a state route number 520 expansion impact plan for addressing the impacts of the state route number 520 bridge replacement and HOV project on Seattle neighborhoods, parks, and institutions of higher education, and the city of Seattle. The mediator must have significant

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professional experience in working with impacted communities that surround major transportation construction projects, mitigating the construction impacts on those communities. In evaluating the project impacts, the mediator shall consider the concerns of neighborhoods and institutions of higher education directly impacted by the proposed designs, and shall work with the appropriate planning staff. The mediator shall work to ensure that the plan provides a comprehensive approach to mitigating the impacts of the project. The department shall hire the mediator and the planning staff within existing appropriations allocated for the state route number 520 bridge replacement and HOV project. The position of mediator under this section is not considered a certified or legally binding position.

(2) The state route number 520 expansion impact plan must be submitted to the commission, which shall oversee the development of the plan. The commission shall approve the plan sixty days before the propositions required under RCW 36.120.070(2) and 81.112.030(10) are submitted to regional voters at the 2007 general election, or before the beginning of the 2008 regular legislative session.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Murray to Substitute Senate Bill No. 6099.

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

## MOTION

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

On page 1, line 1 of the title, strike all material through line 3 of the title and insert the following:

"AN ACT Relating to the state route number 520 bridge replacement and HOV project; adding a new section to chapter 47.01 RCW; and declaring an emergency."

## MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute Senate Bill No. 6099 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6099.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6099 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

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

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Voting nay: Senators Carrell, McCaslin, Morton and Zarelli - 4

ENGROSSED SUBSTITUTE SENATE BILL NO. 6099, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8405, by Senators Haugen, Swecker, Murray and Rasmussen

Establishing a joint interim work group concerning the Columbia River Crossing Project. Revised for 1st Substitute: Providing for the study of legislative and financial issues regarding the Columbia River Crossing Project.

## MOTIONS

On motion of Senator Murray, Substitute Senate Concurrent Resolution No. 8405 was substituted for Senate Concurrent Resolution No. 8405 and the substitute concurrent resolution was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Concurrent Resolution No. 8405 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

Senator Murray spoke in favor of passage of the resolution.

## MOTION

On motion of Senator Regala, Senator Pridemore was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Concurrent Resolution No. 8405.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Concurrent Resolution No. 8405 and the concurrent resolution passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8405, having received the constitutional majority, was declared passed.

## SECOND READING

SENATE BILL NO. 5206, by Senators Haugen and Swecker

Addressing the use of tires with retractable studs. Revised for 1st Substitute: Modifying the regulation of studded tire use.

The measure was read the second time.

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## MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 5206 was not substituted for Senate Bill No. 5206 and the substitute bill was not adopted.

## WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford, the amendment by Senator Honeyford on page 2, line 14 to Senate Bill No. 5206 was withdrawn.

## MOTION

On motion of Senator Haugen, the rules were suspended, Senate Bill No. 5206 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5206.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5206 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 5206, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Benton, the point of order by Senator Benton relative to Substitute Senate Bill No. 5188 was withdrawn.

The Senate resumed consideration of Second Substitute Senate Bill No. 5188 which had been deferred earlier in the day.

## PERSONAL PRIVILEGE

Senator Honeyford: "I just wanted to let the body know that I was mistaken. This is for the not the specialized plates but the personalized plates only."

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5188.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5188 and the bill passed the Senate

by the following vote: Yeas, 43; Nays, 6; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brandland, Brown, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 43

Voting nay: Senators Benton, Carrell, Holmquist, Honeyford, Roach and Stevens - 6

SECOND SUBSTITUTE SENATE BILL NO. 5188, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6014, by Senators Swecker, Haugen, Keiser, Hatfield, Zarelli, Benton, Hewitt, Stevens, Shin, Marr, Rasmussen, Oemig and Sheldon

Authorizing industrial development on reclaimed surface coal mine sites.

The measure was read the second time.

## MOTION

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 6014 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6014.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6014 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 6014, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Second Substitute Senate Bill No. 6044 which had been deferred on March 10, 2007.

## PARLIAMENTARY INQUIRY

Senator Rockefeller: "I don't recall making the second reading motion but you've indicated that is in order?"

## REPLY BY THE PRESIDENT

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President Owen: "According to our records on Saturday, it was substituted before it was put down."

MOTION

Senator Rockefeller moved that the following striking amendment by Senator Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79.100.010 and 2006 c 153 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(i) Is sunk or in danger of sinking;

(ii) Is obstructing a waterway; or

(iii) Is endangering life or property.

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

(7) ~~"Vessel" ((has the same meaning as defined in RCW 53.08.310)) means every species of watercraft or other mobile artificial contrivance, powered or unpowered, intended to be used for transporting people or goods on water or for floating marine construction or repair and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft, or any attached floats or debris.~~

**Sec. 2.** RCW 79.100.040 and 2006 c 153 s 3 are each amended to read as follows:

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

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

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

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

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

(3)(a) If a vessel is: (i) In immediate danger of sinking, breaking up, or blocking navigational channels(5); or (ii) poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination; and (iii) the owner of the vessel cannot be located or is unwilling or unable to assume immediate responsibility for the vessel, any authorized public entity may tow, beach, or otherwise take temporary possession of the vessel.

(b) Before taking temporary possession of the vessel, the authorized public entity must make reasonable attempts to consult with the department or the United States coast guard to ensure that other remedies are not available. The basis for taking temporary possession of the vessel must be set out in writing by the authorized public entity within seven days of taking action and be submitted to the owner, if known, as soon thereafter as is reasonable. If the authorized public entity has not already provided the required notice, immediately after taking possession of the vessel, the authorized public entity must initiate the notice provisions in subsection (1) of this section. The authorized public entity must complete the notice requirements of subsection (1) of this section before using or disposing of the vessel as authorized in RCW 79.100.050.

**NEW SECTION. Sec. 3.** A new section is added to chapter 79.100 RCW to read as follows:

A marina owner may contract with a local government for the purpose of participating in the derelict vessel removal program. The local government shall serve as the authorized public entity for the removal of the derelict vessel from the marina owner's property. The contract must provide for the marina owner to be financially responsible for the removal costs that are not reimbursed by the department as provided under RCW 79.100.100, and any additional reasonable administrative costs incurred by the local government during the removal of the derelict vessel. Prior to the commencement of any removal which will seek reimbursement from the derelict vessel removal program, the contract and the proposed vessel removal shall be submitted to the department for review and approval. The local government shall use the procedure specified under RCW 79.100.100(6).

**Sec. 4.** RCW 79.100.100 and 2006 c 153 s 6 are each amended to read as follows:

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(1) The derelict vessel removal account is created in the state treasury. All receipts from RCW 79.100.050 and 79.100.060 and those moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into the account. The account is authorized to receive fund transfers from the general fund or the state oil spill prevention account created in RCW 90.56.510, deposits from the watercraft excise tax under RCW 82.49.030, deposits from the derelict vessel removal surcharge under section 9 of this act, as well as gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of removal projects associated with this chapter. Moneys in the account may only be spent after appropriation. Expenditures from the account shall be used by the department to reimburse authorized public entities for up to ninety percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. Reimbursement shall not be made unless the department determines that the public entity has made reasonable efforts to identify and locate the party responsible for the vessel, regardless of the title of owner of the vessel. Funds in the account resulting from transfers from the general fund, the state oil spill prevention account, or from the deposit of funds from the watercraft excise tax as provided for under RCW 82.49.030 shall be used to reimburse one hundred percent of these costs and should be prioritized for the removal of large vessels. Costs associated with removal and disposal of an abandoned or derelict vessel under the authority granted in RCW 53.08.320 also qualify for reimbursement from the derelict vessel removal account. In each biennium, up to twenty percent of the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) If the balance of the account reaches one million dollars as of March 1st of any year, exclusive of any fund transfers from the general fund or the state oil spill prevention account or any funds deposited into the account collected under RCW 82.49.030 and section 9 of this act, the department must notify the department of licensing and the collection of any fees associated with this account must be suspended for the following fiscal year.

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

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

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

(6) This chapter does not guarantee reimbursement for an authorized public entity. Authorized public entities seeking

certainty in reimbursement prior to taking action under this chapter may first notify the department of their proposed action and the estimated total costs. Upon notification by an authorized public entity, the department must make the authorized public entity aware of the status of the fund and the likelihood of reimbursement being available. The department may offer technical assistance and assure reimbursement for up to two years following the removal action if an assurance is appropriate given the balance of the fund and the details of the proposed action.

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

(1) A marina that leases permanent moorage to vessels must require the following information from the lessee as a condition of leasing moorage space: (a) The name of the legal owner of the vessel; (b) a local contact person, if different than the owner; (c) the owner's address and telephone number; (d) the vessel's hull identification number; (e) the vessel's coast guard registration, if applicable; (f) the vessel's home port; (g) the date on which the moorage lease began; and (h) the vessel's country or state of registration and registration number. A marina shall maintain records of this information for at least two years. The marina shall permit any authorized agent of the department of natural resources to inspect these records upon request.

(2) A marina that leases permanent moorage to vessels must require proof of vessel registration or a written statement of intent to register a vessel as a condition of leasing moorage space. If the applicant's vessel is not registered in this state, the marina must inform the moorage applicant of the state law requiring vessel registration and direct the moorage applicant to the appropriate vessel registration forms. Thereafter, it is the moorage applicant's responsibility to register the vessel.

**Sec. 6.** RCW 82.49.030 and 2000 c 103 s 18 are each amended to read as follows:

(1) The excise tax imposed under this chapter is due and payable to the department of licensing or its agents at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until the tax is paid in full.

(2) ~~((The))~~ In calendar year 2007, one million dollars of the watercraft excise tax collected under this chapter shall be deposited into the derelict vessel removal account under RCW 79.100.100. Beginning January 1, 2008, through December 31, 2012, the first one million dollars of watercraft excise tax collected under this chapter shall be deposited in the derelict vessel removal account under RCW 79.100.100. Once one million dollars has been deposited into the derelict vessel removal account the excise tax collected under this chapter shall be deposited into the general fund.

(3) Beginning January 1, 2013, the excise tax collected under this chapter shall be deposited in the general fund.

**Sec. 7.** RCW 88.02.050 and 2005 c 464 s 2 are each amended to read as follows:

(1) Application for a vessel registration shall be made to the department or its authorized agent in the manner and upon forms prescribed by the department. The application shall state the name and address of each owner of the vessel and such other information as may be required by the department, shall be signed by at least one owner, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW.

(2) Five additional dollars must be collected annually from every vessel registration application. These moneys must be distributed in the following manner:

(a) Two dollars must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer of funds into the account or funds deposited into the account collected under RCW 82.49.030 and section 9 of this act, reaches one million dollars as of March 1st of any year, the

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collection of the two-dollar fee must be suspended for the following fiscal year.

(b) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879.

(c) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667.

(d) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400.

(3) Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the five-dollar fee created in subsection (2) of this section.

(4) Upon receipt of the application and the registration fee, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the code of federal regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.

(5) The vessel registrations and decals are valid for a period of one year, except that the director of licensing may extend or diminish vessel registration periods, and the decals therefor, for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the vessel registration fee, excise tax, and the derelict vessel fee. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for distribution. The form will be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department or its authorized agent for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of one dollar.

**Sec. 8.** RCW 88.02.050 and 2002 c 286 s 13 are each amended to read as follows:

Application for a vessel registration shall be made to the department or its authorized agent in the manner and upon forms prescribed by the department. The application shall state the name and address of each owner of the vessel and such other information as may be required by the department, shall be signed by at least one owner, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW. In addition, two additional dollars must be collected annually from every vessel registration application. These moneys must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer of funds into the account or funds deposited into the account collected under RCW 82.49.030 and section 9 of this act, reaches one million dollars as of March 1st of any year, the collection of the two-dollar fee must be suspended for the

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following fiscal year. Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the two-dollar derelict vessel fee.

Upon receipt of the application and the registration fee, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the code of federal regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.

The vessel registrations and decals are valid for a period of one year, except that the director of licensing may extend or diminish vessel registration periods, and the decals therefor, for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the vessel registration fee, excise tax, and the derelict vessel fee. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for distribution. The form will be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department or its authorized agent for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of one dollar.

**NEW SECTION. Sec. 9.** A new section is added to chapter 88.02 RCW to read as follows:

(1) In order to address the significant backlog of derelict vessels that have accumulated in our state's waters that pose a threat to the health and safety of the people and to our environment, the legislature intends to collect a derelict vessel removal surcharge.

(2) In addition to the fees collected under RCW 88.02.050, the department shall collect an annual derelict vessel removal surcharge of one dollar effective with vessel registrations that are due or will become due on or after January 1, 2008. The revenue generated from the derelict vessel surcharge must be deposited into the derelict vessel removal account established under RCW 79.100.100, and is to be used only for the removal of vessels that are less than seventy-five feet in length.

(3) This section expires January 1, 2014.

**NEW SECTION. Sec. 10.** (1) The department of natural resources, in consultation with the department of revenue, the department of licensing, and other appropriate stakeholder groups, shall examine:

(a) The costs and benefits of extending a derelict vessel removal fee or surcharges to vessels that are not subject to RCW 88.02.050; and

(b) The use of alternative revenue sources, such as the watercraft excise tax, in order to more equitably distribute the financial responsibility of supporting the cost of the derelict vessel program. The departments shall submit a report of the



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findings to the appropriate policy and fiscal committees of the legislature by November 1, 2007.

(2) The department of natural resources, the department of ecology, representatives from the ship demolition industry, and representatives from the environmental community shall convene a work group to discuss operations and permitting requirements surrounding the demolition and disposal of large abandoned and derelict vessels. The department of natural resources shall consider the findings of the work group when updating the guidelines for the derelict vessel program.

NEW SECTION. Sec. 11. Section 7 of this act expires June 30, 2012.

NEW SECTION. Sec. 12. Section 8 of this act takes effect June 30, 2012."

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

#### MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli to the striking amendment be adopted.

On page 4, line 25, after "general fund", strike all material through "RCW 90.56.510" on line 26.

On page 5, line 9, after "general fund" strike "the state oil spill prevention account."

On page 5, line 22, after "fund", strike "or the oil spill prevention account."

Senators Zarelli, Prentice and Rockefeller spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 4, line 25 to the striking amendment to Second Substitute Senate Bill No. 6044.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Rockefeller as amended to Second Substitute Senate Bill No. 6044.

The motion by Senator Rockefeller carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

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

On page 1, line 1 of the title, after "vessels;" strike the remainder of the title and insert "amending RCW 79.100.010, 79.100.040, 79.100.100, 82.49.030, 88.02.050, and 88.02.050; adding a new section to chapter 79.100 RCW; adding new sections to chapter 88.02 RCW; creating a new section; providing an effective date; and providing expiration dates."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6044 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6044.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6044 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6044, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE JOINT RESOLUTION NO. 8212, by Senators Hargrove, Carrell, Regala and Stevens

Revising limitations on use of inmate labor.

The measure was read the second time.

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Senate Joint Resolution No. 8212 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Senate Joint Resolution No. 8212.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8212 and the resolution passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE JOINT RESOLUTION NO. 8212, having received the constitutional majority, was declared passed.

#### SECOND READING

SENATE BILL NO. 5770, by Senators Shin, Schoesler and Kilmer

Changing public works provisions for institutions of higher education.

#### MOTION

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On motion of Senator Shin, Substitute Senate Bill No. 5770 was substituted for Senate Bill No. 5770 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Shin moved that the following striking amendment by Senator Shin be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.10.350 and 2001 c 38 s 1 are each amended to read as follows:

(1) When the cost to The Evergreen State College, any regional university, or state university, of any building, construction, renovation, remodeling, or demolition other than maintenance or repairs will equal or exceed the sum of ~~((thirty-five))~~ fifty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That when the estimated cost of such building, construction, renovation, remodeling, or demolition equals or exceeds the sum of twenty-five thousand dollars, such project shall be deemed a public works and "the prevailing rate of wage," under chapter 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ~~((fifteen))~~ thirty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications. This subsection shall not apply when a contract is awarded by the small works roster procedure authorized in RCW 39.04.155 or under any other procedure authorized for an institution of higher education.

(2) The Evergreen State College, any regional university, or state university may require a project to be put to public bid even when it is not required to do so under subsection (1) of this section.

(3) Where the estimated cost to The Evergreen State College, any regional university, or state university, of any building, construction, renovation, remodeling, or demolition is less than twenty-five thousand dollars or the contract is awarded by the small works roster procedure authorized in RCW 39.04.155, the publication requirements of RCW 39.04.020 shall be inapplicable.

(4) In the event of any emergency when the public interest or property of The Evergreen State College, regional university, or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of such an emergency and reciting the facts constituting the same may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency: PROVIDED, That an "emergency," for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of such college or university in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations.

**Sec. 2.** RCW 28B.50.330 and 1993 c 379 s 108 are each amended to read as follows:

The boards of trustees of college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping, demolition, and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW

28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests, or grants, and such additional funds as the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules and regulations of the state board. With respect to building, improvements, or repairs, or other work, where the estimated cost exceeds ~~((twenty-five))~~ fifty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ~~((ten))~~ thirty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications. This subsection shall not apply when a contract is awarded by the small works roster procedure as authorized ~~((in RCW 39.04.150))~~ by state law: PROVIDED FURTHER, That any project regardless of dollar amount may be put to public bid.

Where the estimated cost to any college of any building, improvements, or repairs, or other work, is less than twenty-five thousand dollars, the publication requirements of RCW 39.04.020 shall be inapplicable."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Shin to Substitute Senate Bill No. 5770.

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

## MOTION

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

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "and amending RCW 28B.10.350 and 28B.50.330."

## MOTION

On motion of Senator Shin, the rules were suspended, Engrossed Substitute Senate Bill No. 5770 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5770.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5770 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

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Voting nay: Senator Carrell - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5770, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5979, by Senators Murray, Swecker, Haugen, Pflug, Marr and Kohl-Welles

Modifying transportation innovative partnerships provisions.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 5979 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5979.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5979 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Carrell - 1

SENATE BILL NO. 5979, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5084, by Senators Murray, Swecker, Haugen and Delvin

Updating rail transit safety plan provisions to comply with federal regulation.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 5084 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5084.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5084 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Stevens - 1

SENATE BILL NO. 5084, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5207, by Senators Haugen, Murray and Spanel

Creating and funding the freight congestion relief account for the purpose of improving freight rail systems and state highways used as freight corridors through imposing a fee on the processing of shipping containers. Revised for 1st Substitute: Concerning a study to evaluate the imposition of a fee on the processing of shipping containers, port-related user fees, and other funding mechanisms to improve freight corridors; creating the freight congestion relief account.

#### MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5207 was substituted for Senate Bill No. 5207 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5207 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Benton: "Would the previous speaker yield to a question? Does this bill now in its present form contain any new or additional tax or fee requirements?"

Senator Murray: "No, this bill is a study bill."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5207.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5207 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brandland, Brown, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Shin, Spanel, Swecker, Tom and Weinstein - 41

Voting nay: Senators Benton, Carrell, Holmquist,

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McCaslin, Roach, Sheldon, Stevens and Zarelli - 8

SUBSTITUTE SENATE BILL NO. 5207, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5798, by Senators Swecker and Haugen

Preserving the use of design-build construction on certain transportation projects.

The measure was read the second time.

#### MOTION

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 5798 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Swecker and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5798.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5798 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 5798, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5078, by Senators Honeyford and Kline

Implementing rules for drivers when approaching stationary emergency vehicles and police vehicles on highways having less than four lanes. Revised for 1st Substitute: Implementing rules for drivers when approaching stationary emergency, roadside assistance, and police vehicles on highways having less than four lanes.

#### MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 5078 was substituted for Senate Bill No. 5078 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 5078 was advanced to third reading,

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the second reading considered the third and the bill was placed on final passage.

Senator Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5078.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5078 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE SENATE BILL NO. 5078, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6120, by Senators Marr, Swecker, Oemig, Haugen, Rockefeller, Kauffman, Berkey, Murray, Spanel, Eide, Kilmer, Poulsen, Delvin, Regala, Jacobsen, Fraser, Kohl-Welles and Rasmussen

Addressing rail and freight infrastructure.

#### MOTION

On motion of Senator Marr, Substitute Senate Bill No. 6120 was substituted for Senate Bill No. 6120 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Marr moved that the following amendment by Senator Marr and others be adopted.

On page 2, line 12, after "Sec. 2." strike "(1)"

On page 2, beginning on line 29, strike all material through line 31

Beginning on page 4, line 7, strike all of section 5 and insert the following:

"Sec. 5. RCW 47.06A.020 and 2005 c 319 s 125 are each amended to read as follows:

(1) The board shall:

(a) Adopt rules and procedures necessary to implement the freight mobility strategic investment program;

(b) Solicit from public entities proposed projects that meet eligibility criteria established in accordance with subsection (4) of this section; and

(c) Review and evaluate project applications based on criteria established under this section, and prioritize and select projects comprising a portfolio to be funded in part with grants from state funds appropriated for the freight mobility strategic investment program. In determining the appropriate level of state funding for a project, the board shall ensure that state funds are allocated to leverage the greatest amount of partnership funding possible. After selecting projects comprising the portfolio, the board shall submit them as part of its budget

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request to the office of financial management and the legislature, and by August 1st each year, the board shall provide a copy of its portfolio of selected projects to the department and the commission. The board shall ensure that projects submitted as part of the portfolio are not more appropriately funded with other federal, state, or local government funding mechanisms or programs. The board shall reject those projects that appear to improve overall general mobility with limited enhancement for freight mobility.

The department shall consider the portfolio furnished by the board in developing and updating the state's plan for participation in rail infrastructure improvements, and the commission shall consider the portfolio furnished by the board when reviewing the department's plan and making recommendations to the legislature under section 4 of this act. The board shall provide periodic progress reports on its activities to the office of financial management and the senate and house transportation committees.

(2) The board may:

(a) Accept from any state or federal agency, loans or grants for the financing of any transportation project and enter into agreements with any such agency concerning the loans or grants;

(b) Provide technical assistance to project applicants;

(c) Accept any gifts, grants, or loans of funds, property, or financial, or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(d) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter; and

(e) Do all things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

(3) The board shall designate strategic freight corridors within the state. The board shall update the list of designated strategic corridors not less than every two years, and shall establish a method of collecting and verifying data, including information on city and county-owned roadways.

(4) The board shall utilize threshold project eligibility criteria that, at a minimum, includes the following:

(a) The project must be on a strategic freight corridor;

(b) The project must meet one of the following conditions:

(i) It is primarily aimed at reducing identified barriers to freight movement with only incidental benefits to general or personal mobility; or

(ii) It is primarily aimed at increasing capacity for the movement of freight with only incidental benefits to general or personal mobility; or

(iii) It is primarily aimed at mitigating the impact on communities of increasing freight movement, including roadway/railway conflicts; ~~(and)~~

(c) The project must have a total public benefit/total public cost ratio of equal to or greater than one; and

(d) To the greatest extent possible, the project must be consistent with the benefit/impact analysis developed by the department and freight stakeholders under section 3 of this act, and address the legislative priorities identified in section 1 of this act.

(5) From June 11, 1998, through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed by the freight mobility project prioritization committee and contained in the January 16, 1998, report entitled "Project Eligibility, Priority and Selection Process for a Strategic Freight Investment Program." The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority

compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. After June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the freight mobility project prioritization committee as expertise and experience is gained in administering the freight mobility program.

(6) It is the intent of the legislature that each freight mobility project contained in the project portfolio submitted by the board utilize the greatest amount of nonstate funding possible. The board shall adopt rules that give preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, but shall also ensure that there are provisions allowing exceptions for projects that are located in areas where minimal local funding capacity exists or where the magnitude of the project makes the adopted partnership contribution financially unfeasible.

(7) The board shall develop and recommend policies that address operational improvements that primarily benefit and enhance freight movement, including, but not limited to, policies that reduce congestion in truck lanes at border crossings and weigh stations and provide for access to ports during nonpeak hours."

On page 6, beginning on line 34, strike all of section 6 and insert the following:

"**Sec. 6.** RCW 47.76.240 and 1995 c 380 s 5 are each amended to read as follows:

The state, counties, local communities, ports, railroads, labor, and shippers all benefit from continuation of rail service and should participate in its preservation. Lines that provide benefits to the state and local jurisdictions, such as avoided roadway costs, reduced traffic congestion, economic development potential, environmental protection, and safety, should be assisted through the joint efforts of the state, local jurisdictions, and the private sector.

State funding for rail service, rail preservation, and corridor preservation projects must benefit the state's interests. The state's ~~((interest is served by reducing public roadway maintenance and repair costs, increasing economic development opportunities, increasing domestic and international trade, preserving jobs, and enhancing safety. State funding for projects is contingent upon appropriate local jurisdiction and private sector participation and cooperation. Before spending state moneys on projects the department shall seek federal, local, and private funding and participation to the greatest extent possible))~~ participation in rail infrastructure improvements is governed by chapter 47.-- RCW (created in section 7 of this act).

(1) The department of transportation shall continue to monitor the status of the state's mainline and branchline common carrier railroads and preserved rail corridors through the state rail plan and various analyses, and shall seek alternatives to abandonment prior to interstate commerce commission proceedings, where feasible.

(2) The utilities and transportation commission shall intervene in interstate commerce commission proceedings on abandonments, when necessary, to protect the state's interest.

(3) The department of transportation, in consultation with the Washington state freight rail policy advisory committee, shall establish criteria for evaluating rail projects and corridors of significance to the state.

(4) Local jurisdictions may implement rail service preservation projects in the absence of state participation.

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(5) The department of transportation shall continue to monitor projects for which it provides assistance."

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

On page 7, line 2, after "Title" strike "81" and insert "47"  
On page 7, beginning on line 3, strike all of section 8

Senator Marr spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Marr and others on page 2, line 23 to Substitute Senate Bill No. 6120.

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

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Benton, the amendment by Senator Benton on page 2, line 12 to Substitute Senate Bill No. 6120 was withdrawn.

#### MOTION

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

On page 1, line 1 of the title, after "infrastructure;" strike the remainder of the title and insert "amending RCW 47.06A.020; and adding a new chapter to Title 47 RCW."

#### MOTION

On motion of Senator Marr, the rules were suspended, Engrossed Substitute Senate Bill No. 6120 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Marr and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6120.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6120 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE SENATE BILL NO. 6120, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5731, by Senators Shin, Delvin, Berkey, Sheldon, Tom, Oemig, Rasmussen, Pridemore, Roach, Jacobsen and Kohl-Welles

Creating a committee on the education of students in high demand fields.

#### MOTIONS

On motion of Senator Shin, Substitute Senate Bill No. 5731 was substituted for Senate Bill No. 5731 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Shin, the rules were suspended, Substitute Senate Bill No. 5731 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Fairley was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5731.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5731 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Fairley - 1

SUBSTITUTE SENATE BILL NO. 5731, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Morton, Senator McCaslin was excused.

#### MOTION

On motion of Senator Eide, the Senate reverted to the third order of business.

#### MOTION

Senator Eide moved that the motion to refer gubernatorial Appointment No. 9265 to the Committee on Health & Long Term Care be reconsidered.

The President declared the question before the Senate to be the motion by Senator Eide to reconsider the motion to refer gubernatorial Appointment No. 9265 to the Committee on Health & Long Term Care.

The motion by Senator Eide carried by voice vote.

#### MOTION

On motion of Senator Eide, gubernatorial Appointment No. 9265 was referred to the Committee on Human Services & Corrections.

The President declared the question before the Senate to be the motion by Senator Eide to refer gubernatorial Appointment No. 9265 to the Committee on Human Services & Corrections.

The motion by Senator Eide carried by voice vote.

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MOTION

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

SECOND READING

SENATE BILL NO. 5797, by Senators Clements, Haugen, Holmquist, Murray, Delvin, Sheldon, Shin, Benton and Tom

Requiring motorcycle endorsement verification before registration renewal.

MOTION

On motion of Senator Clements, Substitute Senate Bill No. 5797 was substituted for Senate Bill No. 5797 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Clements moved that the following amendment by Senator Clements and other be adopted.

On page 2, line 2, after "under RCW 46.20.500", insert "or RCW 46.20.510"

On page 2, line 4, after "under RCW 46.20.500", insert "or RCW 46.20.510"

Senator Clements spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Clements and others on page 2, line 2 to Substitute Senate Bill No. 5797.

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

MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist, Clements and Haugen be adopted.

On page 5, line 28, after "(2)" strike "Every" and insert "From March 1, 2008, until March 1, 2010, every"

On page 6, beginning on line 1, strike all of sections 4 and 5 Correct the title.

Senator Holmquist spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist, Clements and Haugen on page 5, line 28 to Substitute Senate Bill No. 5797.

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

MOTION

On motion of Senator Clements, the rules were suspended, Engrossed Substitute Senate Bill No. 5797 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Clements spoke in favor of passage of the bill.

POINT OF ORDER

Senator Oemig: "Mr. President, I would like to know if this bill requires a simple majority for passage or a two-thirds? This bill is going to raise the fee for motorcycle endorsement and as the good senator's amendment will sunset that fee, what I wonder is, with this new fee going into multiple accounts for different purposes some of which is unspecified, if this fee can actually still be characterized as a fee? So, my first question is whether it remains a fee upon final passage and, second, if the President can determine whether this surcharge increases state revenues under Initiative 601 and requires a two-thirds vote?"

Senator Benton spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5797 was deferred and the bill held its place on the third reading calendar.

MOTION

At 5:06 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 7:09 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 12, 2007

MR. PRESIDENT:

The House has passed the following bills:  
 SECOND SUBSTITUTE HOUSE BILL NO. 1280,  
 SUBSTITUTE HOUSE BILL NO. 1394,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1573,  
 HOUSE BILL NO. 1670,  
 HOUSE BILL NO. 2136,  
 SUBSTITUTE HOUSE BILL NO. 2230,  
 SUBSTITUTE HOUSE BILL NO. 2300,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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

SECOND READING

SENATE BILL NO. 5373, by Senators Kohl-Welles, Prentice, Keiser, Franklin and Kline

Regarding reporting, penalty, and corporate officer provisions of the unemployment insurance system.

MOTION

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On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5373 was substituted for Senate Bill No. 5373 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles and Clements be adopted.

On page 8, line 23 after "corporation" insert ", other than those covered by chapters 50.44 and 50.50 RCW,"

On page 8, line 24, after "exempt" insert "from coverage under this title as provided in subsection (2) of this section"

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles and Clements on page 8, line 23 to Substitute Senate Bill No. 5373.

The motion by Senator Kohl-Welles carried and the amendment was adopted by voice vote.

## WITHDRAWAL OF AMENDMENT

On motion of Senator Jacobsen, the amendment by Senator Jacobsen and others on page 13, line 10 to Substitute Senate Bill No. 5373 was withdrawn.

## MOTION

Senator Kohl-Welles moved that the following amendment by Senators Kohl-Welles and Clements be adopted.

On page 15, beginning on line 31, strike all of subsection (6) and insert the following:

"(6) The professional employer organization must file quarterly wage and contribution reports with the department. The professional employer organization may file either a single electronic report containing separate and distinct information for each client employer and using the employer account number and tax rate assigned to each client employer by the department, or separate paper reports for each client employer."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Kohl-Welles and Clements on page 15, line 31 to Substitute Senate Bill No. 5373.

The motion by Senator Kohl-Welles carried and the amendment was adopted by voice vote.

## MOTION

Senator Clements moved that the following amendment by Senator Clements be adopted.

On page 16, after line 18, insert the following:

"(3) To collect any contributions, penalties or interest due to the department from the professional employer organization, the department must follow the procedures contained in chapter 50.24 RCW. If the amount of contributions, interest or penalties assessed by the commissioner pursuant to chapter 50.24 RCW is not paid by the professional employer organization within 10 days, then the commissioner may follow the collection procedures in chapter 50.24 RCW. After the 10 day period, if

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the professional employer organization has not paid the total amount owing, the commissioner may also pursue the client employer to collect what is owed using the procedures contained in chapter 50.24 RCW."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Clements and Kohl-Welles spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Clements on page 16, after line 18 to Substitute Senate Bill No. 5373.

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

## MOTION

Senator Clements moved that the following amendment by Senator Clements be adopted.

On page 16, after line 25, insert the following:

"NEW SECTION. Sec. 13. The department shall report on the implementation of sections 8 through 12 of this act and its impacts on professional employer organizations, small businesses and the integrity and operations of the unemployment insurance system operated under title 50 RCW. The department shall report to the unemployment insurance advisory committee and to the appropriate committees of the legislature no later than December 1, 2010."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Clements and Kohl-Welles spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Clements on page 16, after line 25 to Substitute Senate Bill No. 5373.

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

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Senate Bill No. 5373 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Clements spoke in favor of passage of the bill.

Senator Delvin spoke against passage of the bill.

## MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

## MOTION

On motion of Senator Regala, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5373.

## ROLL CALL



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The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5373 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Swecker, Tom and Weinstein - 36

Voting nay: Senators Brandland, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Schoesler, Sheldon and Stevens - 11

Excused: Senators Hargrove and Zarelli - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5373, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5503, by Senators Marr, Keiser, Brown, Brandland, Fairley, Schoesler, Berkey, Shin, Delvin, Kohl-Welles and McAuliffe

Licensing persons who offer athletic training services.

MOTIONS

On motion of Senator Marr, Substitute Senate Bill No. 5503 was substituted for Senate Bill No. 5503 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 5503 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Marr and Kohl-Welles spoke in favor of passage of the bill.

Senator Clements spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5503.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5503 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

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

Voting nay: Senators Benton, Carrell, Clements, Delvin, Hewitt, Holmquist, Morton and Stevens - 8

Excused: Senators Hargrove and Zarelli - 2

SUBSTITUTE SENATE BILL NO. 5503, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5827, by Senators Hobbs, Weinstein, Oemig, Fairley, Pridemore, Keiser, Regala, Kohl-Welles, Prentice, Kline and Rasmussen

Regarding consumer privacy.

MOTION

On motion of Senator Hobbs, Substitute Senate Bill No. 5827 was substituted for Senate Bill No. 5827 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hobbs moved that the following striking amendment by Senator Hobbs be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.182.020 and 1993 c 476 s 4 are each amended to read as follows:

(1) A consumer reporting agency may furnish a consumer report only under the following circumstances:

(a) In response to the order of a court having jurisdiction to issue the order;

(b) In accordance with the written instructions of the consumer to whom it relates; or

(c) To a person that the agency has reason to believe:

(i) Intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer;

(ii) Intends to use the information for employment purposes;

(iii) Intends to use the information in connection with the underwriting of insurance involving the consumer;

(iv) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(v) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

(2)(a) Subject to (c) of this subsection, a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer who is not an employee at the time the report is procured or caused to be procured unless:

(i) A clear and conspicuous disclosure has been made in writing to the consumer before the report is procured or caused to be procured that a consumer report may be obtained for purposes of considering the consumer for employment. The disclosure may be contained in a written statement contained in employment application materials; or

(ii) The consumer authorizes the procurement of the report.

(b) A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any employee unless the employee has received, at any time after the person became an employee, written notice that consumer reports may be used for employment purposes. A written statement that consumer reports may be used for employment purposes that is contained in employee guidelines or manuals available to employees or included in written materials provided to employees constitutes written notice for purposes of this subsection. This subsection does not apply with respect to a consumer report of an employee who the employer has reasonable cause to believe has engaged in specific activity that constitutes a violation of law.

(c) As applied to (a) and (b) of this subsection, a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes where any information

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contained in the report bears on the consumer's credit worthiness, credit standing, or credit capacity, unless the information is either:

(i) Substantially job related and the employer's reasons for the use of such information are disclosed to the consumer in writing; or

(ii) Required by law.

(d) In using a consumer report for employment purposes, before taking any adverse action based in whole or part on the report, a person shall provide to the consumer to whom the report relates: (i) The name, address, and telephone number of the consumer reporting agency providing the report; (ii) a description of the consumer's rights under this chapter pertaining to consumer reports obtained for employment purposes; and (iii) a reasonable opportunity to respond to any information in the report that is disputed by the consumer. This subsection applies to job applicants and current employees."

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

#### MOTION

Senator Hobbs moved that the following amendment by Senator Hobbs and others to the striking amendment be adopted.

On page 2, after "procure a consumer report" on line 18, strike ", or cause a consumer report to be procured".

Senator Hobbs spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hobbs and others on page 2, line 18 to the striking amendment to Substitute Senate Bill No. 5827.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hobbs and others as amended to Substitute Senate Bill No. 5827.

The motion by Senator Hobbs carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

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

On page 1, line 1 of the title, after "privacy;" strike the remainder of the title and insert "and amending RCW 19.182.020."

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Substitute Senate Bill No. 5827 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5827.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5827 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 43

Voting nay: Senators Hewitt, Parlette and Stevens - 3

Excused: Senators Brown, Hargrove and Zarelli - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 5827, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5883, by Senators Fraser, Swecker, Hargrove, Stevens, Morton, Jacobsen, Rockefeller, Rasmussen and Franklin

Concerning conversion of forest land to nonforestry uses.

#### MOTIONS

On motion of Senator Fraser, Second Substitute Senate Bill No. 5883 was substituted for Senate Bill No. 5883 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Fraser, the rules were suspended, Second Substitute Senate Bill No. 5883 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser, Jacobsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5883.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5883 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 46

Excused: Senators Brown, Hargrove and Zarelli - 3

SECOND SUBSTITUTE SENATE BILL NO. 5883, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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SENATE BILL NO. 6023, by Senators McAuliffe and Rasmussen

Regarding alternative assessments. Revised for 1st Substitute: Concerning the Washington assessment of student learning.

#### MOTION

On motion of Senator Tom, Substitute Senate Bill No. 6023 was substituted for Senate Bill No. 6023 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Tom moved that the following striking amendment by Senators Tom, Holmquist and McAuliffe be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.655.061 and 2006 c 115 s 4 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or section 6 of this act, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area (~~if the student has retaken the Washington assessment of student learning at least once~~) as provided in this section. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning with the graduating class of ~~(2010)~~ 2011, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for

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students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) ~~((Beginning in 2006,))~~ School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) ~~((Subject to available funding, the superintendent shall pilot opportunities for retaking the high school assessment beginning in the 2004-05 school year. Beginning no later than September 2006,))~~ Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process that is separate from the appeals process through the educational service districts established in section 2 of this act, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments not provided in (b) of this subsection through the omnibus appropriations act or by statute or concurrent resolution.

(b) This subsection (10)(b) provides the only legislatively approved objective alternative assessments for which the state must provide funding.

(i) A student's score on the mathematics, reading or English, or writing portion of the preliminary scholastic assessment test (PSAT), the scholastic assessment test (SAT), or the American college test (ACT) may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the ((mathematics)) state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the ((mathematics)) relevant portion of the PSAT, SAT, or ACT to meet or exceed the state standard ((for mathematics)) in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first reading, English, and writing scores by December 1, ((2006)) 2007, and thereafter may increase but not decrease the scores required for students to meet or exceed the state ((standard for mathematics)) standards.

(ii) A student who scores at least a three on the grading scale of one to five for selected advance placement examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A

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score of three on the advance placement examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the advance placement examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the advance placement examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(iii) The state board of education shall approve three tenth grade-level standardized norm-referenced student achievement tests in each content area to serve as objective alternative assessments under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. Upon the request of a student who is seeking to use one of the designated tests as an objective alternative, a school district shall obtain and administer the test to the student. By September 1, 2007, the state board of education shall determine the score that a student must obtain on each designated test for the test for the student to obtain a certificate of academic achievement.

(iv) The end-of-course assessments as provided in section 7 of this act may be used as objective alternative assessments.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

~~((12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for students as provided in this subsection (12):~~

~~(a) Student learning plans are required for eighth through twelfth grade students who were not successful on any or all of the content areas of the Washington assessment for student learning during the previous school year. The plan shall include the courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation. This requirement shall be phased in as follows:~~

~~(i) Beginning no later than the 2004-05 school year ninth grade students as described in this subsection (12)(a) shall have a plan.~~

~~(ii) Beginning no later than the 2005-06 school year and every year thereafter eighth grade students as described in this subsection (12)(a) shall have a plan.~~

~~(iii) The parent or guardian shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, strategies to help them improve their student's skills, and the content of the student's plan.~~

~~(iv) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.~~

~~(b) Beginning with the 2005-06 school year and every year thereafter, all fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.~~

~~(i) The parent or guardian of a student described in this subsection (12)(b) shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the~~

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~~student was unsuccessful, and provide strategies to help them improve their student's skills.~~

~~(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.)~~

Sec. 2. RCW 28A.655.065 and 2006 c 115 s 1 are each amended to read as follows:

(1) The legislature has made a commitment to rigorous academic standards for receipt of a high school diploma. The primary way that students will demonstrate that they meet the standards in reading(;) and writing(~~(- mathematics, and science)~~) is through the Washington assessment of student learning. Once the end-of-course examinations are developed for mathematics and science, as provided in section 7 of this act, then these end-of-course examinations shall be the primary way that students demonstrate they meet the standards in mathematics and science. Only objective assessments that are comparable in rigor to the state assessment are authorized as an alternative assessment. Before seeking an alternative assessment, the legislature expects students to make a genuine effort to meet state standards, through ~~((retaking the Washington assessment of student learning;))~~ regular and consistent attendance at school(;) and participation in extended learning and other assistance programs.

(2) Under RCW 28A.655.061, beginning in the 2006-07 school year, the superintendent of public instruction shall implement objective alternative assessment methods as provided in this section for students to demonstrate achievement of the state standards in content areas in which the student has not yet met the standard on the high school Washington assessment of student learning. A student may access an alternative if the student meets applicable eligibility criteria in RCW 28A.655.061 and other eligibility criteria established by the superintendent of public instruction, including but not limited to attendance criteria and participation in the remediation or supplemental instruction contained in the student learning plan developed under RCW 28A.655.061. A school district may waive attendance and/or remediation criteria for special, unavoidable circumstances.

(3) For the purposes of this section, "applicant" means a student seeking to use one of the alternative assessment methods in this section.

(4) One alternative assessment method shall be a combination of the applicant's grades in applicable courses and the applicant's highest score on the high school Washington assessment of student learning, as provided in this subsection. The superintendent of public instruction shall determine which high school courses are applicable to the alternative assessment method and shall issue guidelines to school districts.

(a) Using guidelines prepared by the superintendent of public instruction, a school district shall identify the group of students in the same school as the applicant who took the same high school courses as the applicant in the applicable content area. From the group of students identified in this manner, the district shall select the comparison cohort that shall be those students who met or slightly exceeded the state standard on the Washington assessment of student learning.

(b) The district shall compare the applicant's grades in high school courses in the applicable content area to the grades of students in the comparison cohort for the same high school courses. If the applicant's grades are equal to or above the mean grades of the comparison cohort, the applicant shall be deemed to have met the state standard on the alternative assessment.

(c) An applicant may not use the alternative assessment under this subsection (4) if there are fewer than six students in the comparison cohort.

(5) The superintendent of public instruction shall develop an alternative assessment method that shall be an evaluation of a collection of work samples prepared and submitted by the applicant, as provided in this subsection and, for career and

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technical applicants, the additional requirements of subsection (6) of this section.

(a) The superintendent of public instruction shall develop guidelines for the types and number of work samples in each content area that may be submitted as a collection of evidence that the applicant has met the state standard in that content area. Work samples may be collected from academic, career and technical, or remedial courses and may include performance tasks as well as written products. The superintendent shall submit the guidelines for approval by the state board of education.

(b) The superintendent shall develop protocols for submission of the collection of work samples that include affidavits from the applicant's teachers and school district that the samples are the work of the applicant and a requirement that a portion of the samples be prepared under the direct supervision of a classroom teacher. The superintendent shall submit the protocols for approval by the state board of education.

(c) The superintendent shall develop uniform scoring criteria for evaluating the collection of work samples and submit the scoring criteria for approval by the state board of education. Collections shall be scored at the state level or regionally by a panel of educators selected and trained by the superintendent to ensure objectivity, reliability, and rigor in the evaluation. An educator may not score work samples submitted by applicants from the educator's school district. If the panel awards an applicant's collection of work samples the minimum required score, the applicant shall be deemed to have met the state standard on the alternative assessment.

(d) Using an open and public process that includes consultation with district superintendents, school principals, and other educators, the state board of education shall consider the guidelines, protocols, scoring criteria, and other information regarding the collection of work samples submitted by the superintendent of public instruction. The collection of work samples may be implemented as an alternative assessment after the state board of education has approved the guidelines, protocols, and scoring criteria and determined that the collection of work samples: (i) Will meet professionally accepted standards for a valid and reliable measure of the grade level expectations and the essential academic learning requirements; and (ii) is comparable to or exceeds the rigor of the skills and knowledge that a student must demonstrate on the Washington assessment of student learning in the applicable content area. The state board shall make an approval decision and determination no later than December 1, 2006, and thereafter may increase the required rigor of the collection of work samples.

(e) By September of 2006, the superintendent of public instruction shall develop informational materials for parents, teachers, and students regarding the collection of work samples and the status of its development as an alternative assessment method. The materials shall provide specific guidance regarding the type and number of work samples likely to be required, include examples of work that meets the state learning standards, and describe the scoring criteria and process for the collection. The materials shall also encourage students in the graduating class of 2008 to begin creating a collection if they believe they may seek to use the collection once it is implemented as an alternative assessment.

(6)(a) For students enrolled in a career and technical education program approved under RCW 28C.04.110, the superintendent of public instruction shall develop additional guidelines for a collection of work samples that evidences that the collection:

(i) Is relevant to the student's particular career and technical program;

(ii) Focuses on the application of academic knowledge and skills within the program;

(iii) Includes completed activities or projects where demonstration of academic knowledge is inferred; and

(iv) Is related to the essential academic learning requirements and state standards that students must meet to earn a certificate of academic achievement or certificate of individual achievement, but also represents the knowledge and skills that successful individuals in the career and technical field of the approved program are expected to possess.

(b) To meet the state standard on the alternative assessment under this subsection (6), an applicant must also attain the state or nationally recognized certificate or credential associated with the approved career and technical program.

(c) The superintendent shall consult with community and technical colleges, employers, the work force training and education coordinating board, apprenticeship programs, and other regional and national experts in career and technical education to create an appropriate collection of work samples and other evidence of a career and technical student's knowledge and skills on the state academic standards.

(7) The superintendent of public instruction shall study the feasibility of using existing mathematics assessments in languages other than English as an additional alternative assessment option. The study shall include an estimation of the cost of translating the tenth grade mathematics assessment into other languages and scoring the assessments should they be implemented.

(8) The superintendent of public instruction shall implement:

(a) By June 1, 2006, a process for students to appeal the score they received on the high school assessments; and

(b) By January 1, 2007, guidelines and appeal processes for waiving specific requirements in RCW 28A.655.061 pertaining to the certificate of academic achievement and to the certificate of individual achievement for students who: (i) Transfer to a Washington public school in their junior or senior year with the intent of obtaining a public high school diploma, or (ii) have special, unavoidable circumstances.

(9)(a) Each educational service district shall establish an appeals panel comprised of educators of the relevant content areas on the Washington assessment of student learning to review and decide appeals submitted by students who did not meet the state standard on the tenth grade Washington assessment of student learning or an objective alternative assessment. The appeal shall not be an appeal established in subsection (8) of this section, but an appeal by a student to demonstrate that he or she has a level of understanding of a content area assessed on the Washington assessment of student learning to meet the state standard, but due to certain circumstances was unable to demonstrate this level of understanding on the assessment.

(b) The state board of education shall establish criteria for the panels to use to make the determinations.

(c) A student is eligible to access the appeal process if the student has retaken the Washington assessment of student learning or has taken an alternative assessment in the content area in which the student is appealing.

(d) The educational service districts jointly shall annually submit a report to the legislature on the number and types of appeals that are received and the number and type of appeals that are approved.

(10)(a) Except for rules implementing subsection (9) of this section, the superintendent of public instruction ((may)) shall adopt rules to implement this section.

(b) The state board of education shall adopt rules to implement subsection (9) of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.655 RCW to read as follows:

English language learners who score at the intermediate level two or below on the Washington language proficiency test or the equivalent level of the evaluation used by the

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superintendent of public instruction to assess the English and academic proficiency of English language learners under RCW 28A.180.090, shall not be required to take the Washington assessment of student learning, except as required by federal law. However, these students are still subject to the graduation requirements established in RCW 28A.655.061.

**Sec. 4.** RCW 28A.155.045 and 2004 c 19 s 104 are each amended to read as follows:

Beginning with the graduating class of 2008, students served under this chapter, who are not appropriately assessed by the high school Washington assessment system as defined in RCW 28A.655.061, even with accommodations, may earn a certificate of individual achievement. The certificate may be earned using multiple ways to demonstrate skills and abilities commensurate with their individual education programs. The determination of whether the high school assessment system is appropriate shall be made by the student's individual education program team. Except as provided in section 6 of this act, for these students, the certificate of individual achievement is required for graduation from a public high school, but need not be the only requirement for graduation. When measures other than the high school assessment system as defined in RCW 28A.655.061 are used, the measures shall be in agreement with the appropriate educational opportunity provided for the student as required by this chapter. The superintendent of public instruction shall develop the guidelines for determining which students should not be required to participate in the high school assessment system and which types of assessments are appropriate to use.

When measures other than the high school assessment system as defined in RCW 28A.655.061 are used for high school graduation purposes, the student's high school transcript shall note whether that student has earned a certificate of individual achievement.

Nothing in this section shall be construed to deny a student the right to participation in the high school assessment system as defined in RCW 28A.655.061, and, upon successfully meeting the high school standard, receipt of the certificate of academic achievement.

**NEW SECTION, Sec. 5.** A new section is added to chapter 28A.655 RCW to read as follows:

(1)(a) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare student success plans for all eighth through twelfth grade students who were not successful on any or all of the content areas of the Washington assessment for student learning during the previous school year. The plan shall be a comprehensive intervention plan to assist the student in continued academic progress and shall include the courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation.

(b) The plan shall require the school district to offer and the student to take a required class or sequence of classes in the content area in which the student did not meet state standards on the Washington assessment of student learning until the student does meet the state standard or graduates or reaches the age of twenty-one. The plan may require the following:

(i) The school district to offer and the student to take before-or-after school sessions, Saturday school, and/or summer school; and

(ii) A test preparation class to assist the student in preparation for the assessment the student will be taking to earn the certificate of achievement.

(c) The parent or guardian of each student with a student success plan shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the

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student was unsuccessful, strategies to help them improve their student's skills, and the content of the student's plan.

(d) The student success plan shall include semiannual academic growth benchmarks for the student to meet. Progress made on the plan and any adjustments to be made to maintain or increase the student's academic growth shall be reported to the student's parents or guardian and the superintendent of public instruction at least semiannually.

(e) The school shall develop a more intensive plan for any student who does not meet the semiannual benchmarks in consecutive periods. The student, the student's parent or guardian, the student's classroom teacher or teachers, the counselor, and the principal shall meet to develop the plan.

(f) If at least ten percent of the students with a student success plan within a school district do not meet the semiannual benchmarks established in the plan as required by this section, then the state board of education shall develop a tiered intervention plan for the school district that provides a graduated series of increasingly intensive intervention strategies for the district and the schools in which the benchmarks are not being met.

(2)(a) All fifth and sixth grade students who were not successful in one or more of the content areas of the Washington assessment of student learning shall have a student success plan.

(b) The parent or guardian of a student described in this subsection (2) shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

(c) Progress made on the student plan shall be reported to the student's parents or guardian at least semiannually and adjustments to the plan made as necessary.

(3) All students who are English language learners who score at the intermediate level two or below on the Washington language proficiency test or equivalent level of the evaluation used by the superintendent of public instruction to assess English and academic proficiency shall have a student success plan. The student success plan shall be a comprehensive intervention plan and shall include the courses, competencies, and other steps needed to be taken by the student, school, and school district to assist the student in continued progress towards English and academic proficiency, including obtaining a certificate of academic achievement up to the time the student is age twenty-one. The plan may include before-or-after school sessions, Saturday school, and/or summer school.

**NEW SECTION, Sec. 6.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) For the graduating classes of 2008 and 2009, students may graduate from high school without earning a certificate of academic achievement or a certificate of individual achievement if they:

(a) Have not successfully met the mathematics standard on the high school Washington assessment of student learning, an approved objective alternative assessment in mathematics, or an alternate assessment developed for eligible special education students;

(b) Have successfully met the state standard in the other content areas required for a certificate under RCW 28A.655.061 or 28A.155.045;

(c) Have met all other state and school district graduation requirements; and

(2) In addition to the requirements under subsection (1) of this section, for the graduating classes of 2008 and 2009, students must:

(a) Continue to annually take high school mathematics courses or career and technical courses designed to increase the individual student's mathematics proficiency toward meeting or exceeding the mathematics standards assessed on the high school Washington assessment of student learning. The student

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and his or her parents or guardians shall meet with one of the student's classroom instructors for the content area in which the student failed to successfully meet the standard and the student's guidance counselor, advisor, or mentor to determine the appropriate coursework and include the information in the student success plan required under RCW 28A.655.061;

(b) Obtain at least the equivalent of a C grade in each of the mathematics courses taken; and

(c) Continue to take the Washington assessment of student learning or appropriate assessment objective alternative mathematics assessment until graduation.

(3) This section expires July 1, 2010.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28A.655 RCW to read as follows:

(1)(a) The state board of education, in consultation with the superintendent of public instruction, shall select statewide end-of-course assessments for high school mathematics and high school science that measure student achievement of the state mathematics and science standards. Except as provided in (b) of this subsection, the assessments shall be scored outside of the school district at the state level or by a third party chosen by the state board of education.

(b) To facilitate ease of scoring and timely return of results, the assessments may rely on multiple choice questions. The assessments that are multiple choice questions may be administered online and may be scored at the district level.

(c) When making the selection, the state board shall consider that the results and scores should be returned in time for the information to be used when developing the student plans under RCW 28A.655.061.

(d) School districts shall administer the assessments according to a uniform assessment schedule and guidelines adopted by the superintendent to ensure appropriate security of the assessment.

(e) Neither the state board of education nor the office of the superintendent of public instruction shall develop any end-of-course examinations for the purposes of this section.

(2) The legislature's intent is that students receive instruction through credited high school courses in the content areas to be assessed and have their knowledge and skills assessed after they complete the courses. However, school districts shall be responsible for designing and implementing the courses. School districts may provide instruction in the content areas through integrated courses.

(3) The end-of-course assessments in high school mathematics shall cover algebra I and geometry. The superintendent shall make the end-of-course assessments in algebra I available to school districts as an objective alternative assessment to the Washington assessment of student learning in the 2008-09 school year. The superintendent shall make the end-of-course assessments in geometry available to school districts as an objective alternative assessment to the Washington assessment of student learning in the 2009-10 school year. The end-of-course assessment in algebra I implemented under this section shall be the Washington assessment of student learning in mathematics for purposes of the certificate of academic achievement under RCW 28A.655.061, beginning with the graduating class of 2013. The end-of-course assessment in algebra I and the end-of-course assessment in geometry implemented under this section shall be the Washington assessment of student learning in mathematics for purposes of the certificate of academic achievement under RCW 28A.655.061, beginning with the graduating class of 2014.

(4) The end-of-course assessment in high school science shall cover biology. The superintendent shall make the science assessment available to school districts as an objective alternative assessment to the Washington assessment of student learning in the 2009-10 school year. The end-of-course assessment in biology implemented under this section shall be the Washington assessment of student learning in science for

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purposes of the certificate of academic achievement under RCW 28A.655.061, beginning with the graduating class of 2013.

**NEW SECTION. Sec. 8.** (1) Beginning in 2007, the state board of education and the superintendent of public instruction shall report annually by December 1st to the education committees of the legislature on the status and progress of implementation of their responsibilities under this act.

(2)(a) By January 5, 2009, the state board of education shall submit a finding to the governor and the legislature regarding whether the implementation timelines established under section 7 of this act can be feasibly met. The board shall consider the following factors in making such a finding:

(i) The expected validity, reliability, and rigor of the end-of-course assessments for use in making individual student high school graduation determinations, based on information from independent national assessment experts;

(ii) Adequate notice to the graduating class of students who will be required to meet state standards on the end-of-course assessments for purposes of the certificate of academic achievement; and

(iii) Other possible factors that are supported by clear and convincing evidence.

(b) If the state board of education finds that one or more of the timelines cannot be met, the board shall:

(i) State the reasons for the finding, along with the supporting evidence;

(ii) Recommend a revised timeline or timelines, with specific dates; and

(iii) Recommend specific actions that must be taken by the board, the superintendent of public instruction, school districts, the legislature, or other entities to ensure that a revised timeline can be met.

(3) This section expires June 30, 2010.

**NEW SECTION. Sec. 9.** If specific funding for the purposes of section 2 of this act, referencing section 2 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, section 2 of this act is null and void.

**NEW SECTION. Sec. 10.** If specific funding for the purposes of section 5 of this act, referencing section 5 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, section 5 of this act is null and void.

**NEW SECTION. Sec. 11.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Clements, the amendment by Senator Clements on page 3, line 27 to the striking amendment to Substitute Senate Bill No. 6023 was withdrawn.

#### MOTION

Senator Clements moved that the following amendment by Senator Clements to the striking amendment be adopted.

On page 16, after line 1, insert the following:

**"NEW SECTION. Sec. 8.** A new section is added to chapter 28A.655 RCW to read as follows:

Notwithstanding RCW 28A.655.061 and 28A.655.065, the Washington assessment of student learning shall not be a graduation requirement until the legislature takes affirmative action to make it a graduation requirement. The legislature shall not take such action until the system is prepared to support the

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requirement. Such determination shall be made for each separate content area of reading, writing, mathematics, and science."

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

Senator Clements spoke in favor of adoption of the amendment to the striking amendment.

Senator McAuliffe spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Clements on page 16, after line 1 to the striking amendment to Substitute Senate Bill No. 6023.

The motion by Senator Clements failed and the amendment to the striking amendment was not adopted by voice vote.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator McAuliffe, the amendment by Senators McAuliffe and Tom on page 17, line 5 to the striking amendment to Substitute Senate Bill No. 6023 was withdrawn.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Tom, Holmquist and McAuliffe to Substitute Senate Bill No. 6023.

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

#### MOTION

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

On page 1, line 1 of the title, after "learning;" strike the remainder of the title and insert "amending RCW 28A.655.061, 28A.655.065, and 28A.155.045; adding new sections to chapter 28A.655 RCW; creating new sections; providing expiration dates; and declaring an emergency."

#### MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Substitute Senate Bill No. 6023 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Holmquist, McAuliffe, Clements spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Kline was excused.

Senators Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6023.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6023 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe,

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McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 43

Voting nay: Senators Delvin, Hewitt, Honeyford and Schoesler - 4

Excused: Senators Hargrove and Zarelli - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 6023, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5528, by Senators Pflug, Holmquist, Zarelli, Swecker, Clements, Stevens, Roach, Hewitt, Delvin and Parlette

Requiring a review of the essential academic learning requirements in mathematics.

#### MOTION

On motion of Senator Pflug, Second Substitute Senate Bill No. 5528 was substituted for Senate Bill No. 5528 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Pflug moved that the following striking amendment by Senators Pflug and McAuliffe be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.305 RCW to read as follows:

**MATHEMATICS STANDARDS AND CURRICULUM.**

(1) The activities in this section are to evaluate the state learning standards, known as the essential academic learning requirements, that implement the goals of RCW 28A.150.210, and improve alignment of school district curriculum to the standards.

(2)(a) By September 2007, the state board of education shall recommend to the office of the superintendent of public instruction revised essential academic learning requirements and grade level expectations in mathematics. These recommendations shall be based on:

(i) Considerations of clarity, rigor, content, depth, coherence from grade-to-grade, specificity, accessibility, and measurability;

(ii) A study of: (A) Standards used by countries that score well on trends in international mathematics and science study (TIMSS) and/or the program for international student assessment (PISA); (B) college readiness standards; (C) the national council of teachers of mathematics focal points and national assessment of educational progress content frameworks; and (D) standards used by three to five other states; and

(iii) Consideration of information presented during public comment periods.

(b) The state board of education shall be aided in its work by an expert national consultant who is retained by the state board of education and a mathematics advisory panel as described in section 2 of this act.

(3) By January 2008, the superintendent of public instruction shall revise the essential academic learning requirements and grade level expectations for mathematics in accordance with the recommendations developed under subsection (2) of this section and present them to the state board of education and the education committees of the house of



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representatives and senate as required by RCW 28A.655.070(4). The superintendent of public instruction shall adopt the revised essential academic learning requirements unless otherwise advised by the legislature during the 2008 legislative session.

(4)(a) By May 2008, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans. The recommended curricula shall align with the revised essential academic learning requirements and grade level expectations.

(b) In selecting the recommended curricula, the office of the superintendent of public instruction shall provide information to the mathematics panel and seek its advice regarding curricula for inclusion in the recommendations.

(c) The state-identified curricula shall align as closely as possible with the revised essential academic learning requirements and grade level expectations. In addition to the identification of the basic curricula, appropriate diagnostic and supplemental materials shall be identified, as necessary, to support each basic curricula. Subject to appropriation and availability, at least one of the curricula in each grade span must be available to schools and parents online at no cost to the school or parent.

(5) By June 2008, the state board of education shall provide official comments to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall make any appropriate changes to recommendations and adopt the state-identified curricula.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.305 RCW to read as follows:

**MATHEMATICS ADVISORY PANEL.** (1) The Legislature shall appoint a mathematics advisory panel, with a minimum of thirteen members, as specified in this section to: (a) Advise the state board of education regarding essential academic learning requirements, learning standards, state-identified curricula in mathematics, and (b) monitor implementation of these activities. In conducting its work, the panel shall provide objective reviews of expert consultant material and provide a public and transparent forum for consideration of mathematics learning standards and curricula.

(2) Each of the two major caucuses of the senate and of the house of representatives shall submit, as appropriate, to the speaker of the house and the president of the senate the names of persons to serve on the panel. Each list of names shall include at least two different persons representing each of the groups identified in subsection 3 of this section.

(3) The speaker of the house and the president of the senate shall each appoint from each of the lists submitted by the caucuses a panel that includes:

(a) at least one person from each caucus list representing individuals from academia in mathematics or science-related fields;

(b) at least one person from each caucus list representing business and industry in mathematics or science-related fields;

(c) at least one person from each caucus list representing mathematics or science educators;

(d) at least one parent from each caucus list; and

(e) at most two persons as could contribute to the work due to their specialized experiences.

(4) Each member of the panel shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. School districts shall be reimbursed for the cost of substitutes for the mathematics educators on the panel as required under RCW 28A.300.035. Members of the panel who are employed by a public institution of higher education shall be provided sufficient time away from their regular duties, without loss of benefits or privileges, to fulfill the responsibilities of being a panel member.

(5) Panel members shall not have conflicts of interest with regard to association with any publisher, distributor, or provider of curriculum, assessment, or test materials and services purchased by or contracted through the office of the superintendent of public instruction, educational service districts, or school districts.

(6) This section expires July 1, 2010.

**NEW SECTION. Sec. 3.** Captions used in this act are not any part of the law.

**NEW SECTION. Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

MOTION

Senator Pflug moved that the following amendment by Senators Pflug and McAuliffe to the striking amendment be adopted.

On page 1, line 22, after "states" insert "and including California green dot standards"

Senators Pflug and McAuliffe spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and McAuliffe on page 1, line 22 to the striking amendment to Second Substitute Senate Bill No. 5528.

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

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Pflug to the striking amendment be adopted.

On page 2, line 30, after "(1)" strike "The" and insert "By May 23, 2007, the"

Senator McAuliffe spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Pflug on page 2, line 10 to the striking amendment to Second Substitute Senate Bill No. 5528.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Pflug and McAuliffe as amended to Second Substitute Senate Bill No. 5528.

The motion by Senator Pflug carried and the striking amendment as amended was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "education;" strike the remainder of the title and insert "adding new sections to chapter 28A.305 RCW; creating a new section; providing an expiration date; and declaring an emergency."

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## MOTION

On motion of Senator Pflug, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5528 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pflug and McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5528.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5528 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Hargrove - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5528, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5026, by Senators Murray and Sheldon

Providing a sales and use tax exemption for recovered wood waste boiler equipment.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 5026 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5026.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5026 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Clements, Eide, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Parlette, Pflug, Prentice, Rasmussen, Roach, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 37

Voting nay: Senators Brandland, Delvin, Fairley, Franklin, Oemig, Poulsen, Pridemore, Regala, Rockefeller, Schoesler and Weinstein - 11

Excused: Senator Hargrove - 1

SENATE BILL NO. 5026, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5685, by Senators Tom, Schoesler, Zarelli, Oemig, Regala, Kilmer, Kohl-Welles, Rasmussen and Roach

Restoring the business and occupation tax credit for high technology research and development spending.

The measure was read the second time.

## MOTION

On motion of Senator Tom, the rules were suspended, Senate Bill No. 5685 was advanced to third reading, the second reading considered the third and the was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5685.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5685 and the passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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

Voting nay: Senators Fairley, Pridemore and Spanel - 3

Excused: Senator Hargrove - 1

SENATE BILL NO. 5685, having received the constitutional majority, was declared passed. There being no objection, the title of the was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5862, by Senators Kilmer, Rockefeller, Poulsen, Kohl-Welles and Kline

Addressing passenger-only ferry service funding. Revised for 2nd Substitute: Regarding passenger-only ferry service.

## MOTION

On motion of Senator Kilmer, Second Substitute Senate Bill No. 5862 was substituted for Senate Bill No. 5862 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Kilmer moved that the following amendment by Senators Kilmer and Haugen be adopted.

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On page 5, after line 23, insert the following:

"**Sec. 8.** RCW 82.08.0255 and 2005 c 443 s 5 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is taxable under chapter 82.36 or 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

**Sec. 9.** RCW 82.12.0256 and 2005 c 443 s 6 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is taxable under chapter 82.36 or 82.38 RCW: PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (2)(~~(c)~~) (d), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue."

Renumber the remaining section consecutively.

Senator Kilmer spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kilmer and Haugen on page 5, after line 23 to Second Substitute Senate Bill No. 5862.

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

MOTION

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

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On page 1, line 2 of the title, after "36.54.110," strike "and" and after "47.60.658" insert ", 82.08.0255, and 82.12.0256"

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5862 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5862.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5862 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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

Voting nay: Senators Benton, Honeyford and Stevens - 3

Excused: Senator Hargrove - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5862, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Brown that Amendment 208 is outside the scope and object of the underlying bill, the President finds and rules as follows.

The underlying bill establishes a spirits, beer and wine nightlife liquor license. The amendment at issue would allow certain dogs in certain liquor-serving establishments. Beyond a common reference to liquor, the amendment and bill share nothing in common, as the sections of code, departments charged with implementation, and subject matter differ greatly.

For these reasons, Amendment 208 is beyond the scope and object of the underlying bill and Senator Brown's point is well-taken.

The Senate resumed consideration of Second Substitute Senate Bill No. 5859 which had been deferred on March 10, 2007.

MOTION

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kohl-Welles to Second Substitute Senate Bill No. 5859.

The motion by Senator Kohl-Welles carried and the striking amendment was adopted by voice vote.

MOTION

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

On page 42, line 22 of the title amendment, after "66.24 RCW;" insert "creating new sections;"

On page 42, line 23 of the title amendment, strike "an expiration date" and insert "expiration dates"

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5859 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Clements spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5859.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5859 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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

Voting nay: Senators Honeyford, Prentice and Stevens - 3

Excused: Senator Hargrove - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5859, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 9:03 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Tuesday, March 13, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

1035-S2	
Messages .....	1
1055-S	
Introduction & 1st Reading .....	1
1103-S2	
Introduction & 1st Reading .....	1
1211-S	
Messages .....	1
1251-S	
Introduction & 1st Reading .....	2
1260-S	
Introduction & 1st Reading .....	2
1280-S2	
Messages .....	47
1285	

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Introduction & 1st Reading	2	Messages	1
1303-S2		2004	
Messages	1	Messages	1
1322-S		2009	
Introduction & 1st Reading	2	Messages	1
1349		2010-S	
Introduction & 1st Reading	2	Introduction & 1st Reading	3
1359-S2		2016-S	
Messages	1	Messages	1
1374-S2		2017	
Introduction & 1st Reading	2	Messages	1
1394-S		2031-S	
Messages	47	Messages	1
1401-S2		2048	
Messages	1	Messages	1
1413		2053-S2	
Introduction & 1st Reading	2	Introduction & 1st Reading	3
1417-S		2079	
Other Action	27	Introduction & 1st Reading	3
Second Reading	26	2115-S	
Third Reading Final Passage	28	Messages	1
1418		2134	
Messages	1	Introduction & 1st Reading	3
1422-S		2135	
Introduction & 1st Reading	2	Messages	1
1461-S2		2136	
Introduction & 1st Reading	2	Messages	47
1492-S		2146	
Messages	1	Introduction & 1st Reading	4
1508-S		Other Action	4
Messages	1	2209-S	
1569-S2		Messages	1
Messages	1	2230-S	
1573-S2		Messages	47
Messages	47	2236	
1588-S		Messages	1
Messages	1	2268-S	
1590-S		Introduction & 1st Reading	4
Introduction & 1st Reading	3	2275-S	
1636-S2		Messages	1
Introduction & 1st Reading	3	2292-S	
1656-S2		Messages	1
Messages	1	2300-S	
1669-S		Messages	47
Introduction & 1st Reading	3	2304-S	
1670		Messages	1
Messages	47	2317-S	
1705-S2		Messages	1
Introduction & 1st Reading	3	2325-S	
Other Action	4	Introduction & 1st Reading	4
1727-S		2335-S	
Messages	1	Messages	1
1743		2358-S	
Introduction & 1st Reading	3	Messages	1
1805-S		2361-S	
Messages	1	Introduction & 1st Reading	4
1826-S		2373	
Messages	1	Messages	1
1837-S		4001	
Introduction & 1st Reading	3	Messages	1
1902		4404	
Messages	1	Messages	1
1956		5011	
Introduction & 1st Reading	3	Second Reading	5
1975-S		Third Reading Final Passage	5
Messages	1	5026	
1992-S2		Second Reading	58
Introduction & 1st Reading	3	Third Reading Final Passage	58
1993-S2		5053	
Messages	1	Second Reading	5
1994		5053-S	

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Third Reading Final Passage	6	Other Action	57
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Second Reading	44	Third Reading Final Passage	58
5078-S		5533	
Second Reading	44	Second Reading	6
Third Reading Final Passage	44	5533-S	
5084		Second Reading	6
Second Reading	43	Third Reading Final Passage	6
Third Reading Final Passage	43	5572	
5085		Second Reading	7
Second Reading	32	Third Reading Final Passage	7
5085-S		5607	
Second Reading	32	Second Reading	6
Third Reading Final Passage	32	Third Reading Final Passage	6
5122		5685	
Second Reading	6	Second Reading	58
5122-S2		Third Reading Final Passage	58
Second Reading	6	5720	
Third Reading Final Passage	7	Second Reading	5
5134		5720-S	
Second Reading	34	Second Reading	5
Third Reading Final Passage	34	Third Reading Final Passage	5
5188		5731	
Second Reading	35	Second Reading	46
5188-S2		5731-S	
Second Reading	35	Second Reading	46
Third Reading Final Passage	37	Third Reading Final Passage	46
5206		5733	
Other Action	37	Second Reading	7
Second Reading	36	5733-S	
Third Reading Final Passage	37	Second Reading	7
5207		Third Reading Final Passage	7
Second Reading	43	5738	
5207-S		Other Action	9
Second Reading	43	Second Reading	7
Third Reading Final Passage	44	Third Reading Final Passage	9
5208		5770	
Second Reading	35	Second Reading	41
Third Reading Final Passage	35	5770-S	
5242		Other Action	42
Second Reading	32	Second Reading	42
5242-S		Third Reading Final Passage	43
Second Reading	32	5788	
Third Reading Final Passage	32	Second Reading	10
5250		5788-S	
Second Reading	34	Other Action	12
5250-S		Second Reading	10
Second Reading	34	Third Reading Final Passage	13
Third Reading Final Passage	34	5797	
5313		Second Reading	47
Second Reading	28	5797-S	
Third Reading Final Passage	28	Second Reading	47
5373		5798	
Second Reading	47	Second Reading	44
5373-S		Third Reading Final Passage	44
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Second Reading	48	Second Reading	13
Third Reading Final Passage	49	5803-S	
5412		Other Action	33
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 Third Reading Final Passage ..... 31  
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