FIFTY-SECOND DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, March 5, 2008

The Senate was called to order at 9:00 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 Hewitt, Kline, Murray and Spanel.

The Sergeant at Arms Color Guard consisting of Pages Jordon Terrell and Anne McCaslin, presented the Colors. Pastor Leon Meyer of Calvary Baptist 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 eighth order of business.

MOTION

Senator Kastama moved adoption of the following resolution:

SENATE RESOLUTION
8737

By Senators Kastama, Rasmussen, Regala, Franklin, Roach, Carrell, Kilmer, and Eide

WHEREAS, The annual Daffodil Festival is a cherished tradition for the people of Pierce County and the Northwest; and

WHEREAS, 2008 marks the seventy-fifth annual Daffodil Festival; and

WHEREAS, The mission of the Daffodil Festival is to focus national and regional attention on our local area as a place to live and visit, to give citizens of Pierce County a civic endeavor where "75 Years . . . Remembering Your First Daffodil Parade" comes alive, fostering civic pride, to give young people and organizations of the local area an opportunity to display their talents and abilities, to vent citizens' enthusiasm in parades, pageantry, and events, and to stimulate the business economy through expenditures by and for the Festival and by visitors attracted during Festival Week; and

WHEREAS, The Festival began in 1926 as a modest garden party in Sumner and grew steadily each year until 1934, when flowers, which previously had been largely discarded in favor of daffodil bulbs, were used to decorate cars and bicycles for a short parade through Tacoma; and

WHEREAS, The Festival's 2008 events are ongoing with the Queen's Coronation on March 14, 2008, and will culminate in the April 12, 2008, Grand Floral Street Parade, winding its way from downtown Tacoma through the communities of Puyallup, Sumner, and Orting, and consisting of approximately 40 float entries and over 80 other entries, including bands, marching and mounted units, and floats that are decorated with fresh-cut daffodils numbering in the thousands; and

WHEREAS, This year's Festival royalty includes: Princesses Lyndsay Moore, Bethel High School; Sarah Martin, Bonney Lake High School; Olivia Anderson, Cascade Christian High School; Wahayla McCloud, Chief Leschi High School; Brittany Ward, Clover Park High School; Megan Jones, Curtis High School; Kate McKee, Eatonville High School; Anna Anderson, Emerald Ridge High School; Katie Berry, Fife High School; Janice Rim, Franklin Pierce High School; Gloria Bleakley, Graham-Kapowsin High School; Alexandria Batdorf, Henry Foss High School; Kelli Bornander, Lakes High School; Jasrael Stokes, Lincoln High School; Amber Perez, Mt. Tahoma High School; Tessa Grossnickle, Orting High School; Jessica Merrell, Puyallup High School; Katie Potasky, Rogers High School; Lainy Hanson, Spanaway Lake High School; Justine Gray, Stadium High School; Alysha Barry, Sumner High School; Courtney Price, Wilson High School; and Nicolle Thompson, Washington High School;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and honor the many contributions made to our state by the Daffodil Festival and its organizers for the past seventy-five years; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the 2008 Daffodil Festival Officers and to the members of the Festival Royalty.

Senators Kastama, Regala, Rasmussen, Franklin and Eide spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8737.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Miss. Jessica Merrell, a 2008 Daffodil Festival Princess, who was seated at the rostrum.

With permission of the Senate, business was suspended to allow Princess Jessica Merrell to address the Senate.

REMARKS BY JESSICA MERRELL

Jessica Merrell: “Hello, again, I am Jessica Merrell from Puyallup High School. I would like to introduce again the 2008 Daffodil Royal Court. I would like to also thank you for letting us be here today. Like it’s been said, 2008 is the seventy-fifth anniversary of the Daffodil Festival and our theme this year is ‘Seventy-five Years Remembering Your First Parade’. On behalf of the Royal Court and myself I would like to thank you again for letting us be here today. We really appreciate this opportunity and to also we will be selling our Daffodil Festival pen which is the seventy-fifth anniversary pen which all the lovely girls have them on their sashes. If you’d like to buy them, there’s a donation of five dollars and each princess will have them with them so you could just go up to them and ask them and again thank you.”

MOTION

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

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 5278,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 5524,
SUBSTITUTE SENATE BILL NO. 6260,

SENATE BILL NO. 6283,
SENATE BILL NO. 6284,
SENATE BILL NO. 6464,
SENATE BILL NO. 6465,
SUBSTITUTE SENATE BILL NO. 6604,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 5651,
SENATE BILL NO. 5868,
SUBSTITUTE SENATE BILL NO. 6244,
SENATE BILL NO. 6271,
SUBSTITUTE SENATE BILL NO. 6322,
SUBSTITUTE SENATE BILL NO. 6324,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Marr moved that Gubernatorial Appointment No. 9291, Craig W. Cole, as a member of the Board of Regents, University of Washington, be confirmed.

Senators Shin and Brandland spoke in favor of passage of the motion.

MOTION

On motion of Senator Regala, Senators Kline, Murray and Spanel were excused.

MOTION

On motion of Senator Brandland, Senator Holmquist was excused.

APPOINTMENT OF CRAIG W. COLE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9291, Craig W. Cole as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9291, Craig W. Cole as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Hewitt - 1

Excused: Senators Kline, Murray and Spanel - 3

Gubernatorial Appointment No. 9291, Craig W. Cole, having received the constitutional majority was declared confirmed as a member of the Board of Regents, University of Washington.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Jacobsen moved that Gubernatorial Appointment No. 9327, Erin Lennon, as a member of the Board of Regents, University of Washington, be confirmed.

Senator Jacobsen spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Hewitt was excused.

APPOINTMENT OF ERIN LENNON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9327, Erin Lennon as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9327, Erin Lennon as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Brown - 1

Excused: Senators Kline, Murray and Spanel - 3

Gubernatorial Appointment No. 9327, Erin Lennon, having received the constitutional majority was declared confirmed as a member of the Board of Regents, University of Washington.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2549, by House Committee on Appropriations (originally sponsored by Representatives Seaquist, Lantz, Morrell, Liias, Barlow and Green)

Establishing patient-centered primary care pilots. Revised for 2nd Substitute: Establishing a patient-centered primary care collaborative program.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that our primary care system is severely faltering and the number of people choosing primary care as a profession is decreasing dramatically. Primary care providers include family medicine and general internal medicine physicians, pediatricians, naturopathic physicians, advanced registered nurse practitioners, and physician assistants. A strong primary care system has been shown to improve health outcomes and quality and to reduce overall health system costs. To improve the health and well-being of the people in the state of Washington; enhance the recruitment, retention, performance, and satisfaction of primary providers; and control costs, our statewide system of primary care providers needs to be rapidly expanded, improved, and supported, in line with current research and professional innovations.

The legislature further finds that a medical home can best deliver the patient-centered approach that can manage chronic diseases, address acute illnesses, and provide effective prevention. A medical home is a place where health care is accessible and compassionate. It is built on evidence-based strategies with a team approach. Each patient receives medically necessary acute, chronic, prevention, and wellness services, as well as other medically appropriate dental and behavioral services, and community support services, all which are tailored to the individual needs of the patient. Development and maintenance of medical homes require changes in the reimbursement of primary care providers in medical home practices. There is a critical need to identify reimbursement strategies to appropriately finance this model of delivering medical care.

NEW SECTION. **Sec. 2.** (1) Within funds appropriated for this purpose, and with the goal of catalyzing and providing financial incentives for the rapid expansion of primary care practices that use the medical home model, the department of health shall offer primary care practices an opportunity to participate in a medical home collaborative program, as authorized under RCW 43.70.533. Qualifying primary care practices must be willing and able to adopt and maintain medical home models, as defined by the department of social and health services in its November 2007 report to the legislature concerning implementation of chapter 5, Laws of 2007.

(2) The collaborative program shall be structured to promote adoption of medical homes in a variety of primary care practice settings throughout the state and consider different populations, geographic locations, including at least one location that would agree to operate extended hours, which could include nights or weekends, and other factors to allow a broad application of medical home adoption, including rural communities and areas that are medically underserved. The collaborative program shall assist primary care practices to implement the medical home requirements and provide the full complement of primary care services as established by the medical home definition in this section. Key goals of the collaborative program are to:

(a) Develop common and minimal core components to promote a reasonable level of consistency among medical homes in the state;

(b) Allow for standard measurement of outcomes; and

(c) Promote adoption, and use of the latest techniques in effective and cost-efficient patient-centered integrated health care.

Medical home collaborative participants must agree to provide data on patients' experience with the program and health outcome measures. The department of health shall consult with the Puget Sound health alliance and other interested organizations when selecting specific measures to be used by primary care providers participating in the medical home collaborative.

(3) The medical home collaborative shall be coordinated with the Washington health information collaborative, the health information infrastructure advisory board, and other efforts directed by RCW 41.05.035. If the health care authority makes grants to primary care practices for implementation of health information technology during state fiscal year 2009, it shall make an effort to make these grants to primary care providers participating in the medical home collaborative.

(4) The department of health shall issue an annual report to the health care committees of the legislature on the progress and outcome of the medical home collaborative. The reports shall include:

(a) Effectiveness of the collaborative in promoting medical homes and associated health information technology, including an assessment of the rate at which the medical home model is being adopted throughout the state;

(b) Identification of best practices; an assessment of how the collaborative participants have affected health outcomes, quality of care, utilization of services, cost-efficiencies, and patient satisfaction;

(c) An assessment of how the pilots improve primary care provider satisfaction and retention; and

(d) Any additional legislative action that would promote further medical home adoption in primary care settings.

The first annual report shall be submitted to the legislature by January 1, 2009, with the final report due to the legislature by December 31, 2011.

NEW SECTION. **Sec. 3.** (1) As part of the five-year plan to change reimbursement required under section 1, chapter 259, Laws of 2007, the health care authority and department of social and health services must expand their assessment on changing reimbursement for primary care to support adoption of medical homes to include medicare, other federal and state payors, and third-party payors, including health carriers under Title 48 RCW and other self-funded payors.

(2) The health care authority shall also collaborate with the Puget Sound health alliance, if that organization pursues a project on medical home reimbursement. The goal of the collaboration is to identify appropriate medical home reimbursement strategies and provider performance measurements for all payors, such as providing greater reimbursement rates for primary care physicians, and to garner support among payors and providers to adopt payment strategies that support medical home adoption and use.

(3) The health care authority shall work with providers to develop reimbursement mechanisms that would reward primary care providers participating in the medical home collaborative program that demonstrate improved patient outcomes and provide activities including, but not limited to, the following:

(a) Ensuring that all patients have access to and know how to use a nurse consultant;

(b) Encouraging female patients to have a mammogram on the evidence-based recommended schedule;

(c) Effectively implementing strategies designed to reduce patients' use of emergency room care in cases that are not emergencies;

(d) Communicating with patients through electronic means; and

(e) Effectively managing blood sugar levels of patients with diabetes.

(4) The health care authority and the department of social and health services shall report their findings to the health care committees of the legislature by January 1, 2009, with a recommended timeline for adoption of payment and provider performance strategies and recommended legislative changes should legislative action be necessary.

NEW SECTION. **Sec. 4.** This act expires December 31, 2011.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Second Substitute House Bill No. 2549.

The motion by Senator Keiser carried and the committee 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 "projects;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute House Bill No. 2549 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug 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 House Bill No. 2549 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2549 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Murray and Spanel - 2

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2549 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

SUBSTITUTE HOUSE BILL NO. 2525, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Pearson, Kretz, Kristiansen and Ross)

Allowing for the mitigation of flood damage without obtaining a permit under chapter 77.55 RCW. Revised for 1st Substitute: Mitigating flood damage.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.55.021 and 2005 c 146 s 201 are each amended to read as follows:

(1) Except as provided in RCW 77.55.031, 77.55.051, and 77.55.041, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit may be submitted in person or by registered mail and must contain the following:

(a) General plans for the overall project;

(b) Complete plans and specifications of the proposed construction or work within the mean higher high water line in saltwater or within the ordinary high water line in freshwater;

(c) Complete plans and specifications for the proper protection of fish life; and

(d) Notice of compliance with any applicable requirements of the state environmental policy act, unless otherwise provided for in this chapter.

(3) As soon as possible after receipt of an application, the department shall provide notice of the application to affected federally recognized Indian tribes and shall accept comment regarding the application provided by such tribes.

(4)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned. Except as provided in this subsection and subsections (((~~(8)~~))) (9), (((~~(10)~~))) (11), and (((~~(11)~~))) (13) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection;

(iii) The applicant requests a delay; or

(iv) The department is issuing a permit for a storm water discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(b) Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(c) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(((~~(4)~~))) (5) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life. Issuance, denial, conditioning, or modification of a permit shall be appealable to the department or the board as specified in RCW 77.55.301 within thirty days of the notice of decision.

(((~~(5)~~))) (6)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for a period of up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for streambank

stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

((~~(6)~~)) (7) The department may, after consultation with the permittee, modify a permit due to changed conditions. The modification becomes effective unless appealed to the department or the board as specified in RCW 77.55.301 within thirty days from the notice of the proposed modification. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

((~~(7)~~)) (8) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request. A decision by the department may be appealed to the board within thirty days of the notice of the decision. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

((~~(8)~~)) (9)(a) The department ((~~or~~)), the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the department ((~~if it declares an emergency under this subsection~~)). A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

(b) The department, through its authorized representatives, shall issue immediately, upon request, oral approval for a stream crossing, or work to remove any obstructions, repair existing structures, restore streambanks, protect fish life, or protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written permit prior to commencing work. Conditions of the emergency oral permit must be established by the department and reduced to writing within thirty days and complied with as provided for in this chapter.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

((~~(9)~~)) (10) All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

((~~(10)~~)) (11) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

((~~(11)~~)) (12)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department may issue a permit, upon request, for work necessary to abate the chronic danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (4) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(13) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 2525.

The motion by Senator Jacobsen carried and the committee 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 "damage;" strike the remainder of the title and insert "and amending RCW 77.55.021."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2525 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 Jacobsen spoke in favor of passage of the bill.

Senator Morton spoke against passage of the bill.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2525 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2525 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 43

Voting nay: Senators Honeyford, McCaslin and Morton - 3

Excused: Senators Murray, Prentice and Spanel - 3

SUBSTITUTE HOUSE BILL NO. 2525 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

HOUSE BILL NO. 2637, by Representatives Pearson, O'Brien, Ericks, Ross and Roach

Concerning records in a criminal case.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2637 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2637.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2637 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Murray and Spanel - 2

HOUSE BILL NO. 2637, 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. 2859, by House Committee on Health Care & Wellness (originally sponsored by Representatives Williams, Hinkle, Moeller and Green)

Establishing new requirements for licensing massage therapists.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2859 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Brandland, Senator Delvin was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2859.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2859 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Senator Oemig - 1

Excused: Senators Delvin, Murray and Spanel - 3

SUBSTITUTE HOUSE BILL NO. 2859, 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

SECOND SUBSTITUTE HOUSE BILL NO. 2557, by House Committee on Appropriations Subcommittee on General Government & Audit Review (originally sponsored by Representatives Goodman, Barlow and Warnick)

Improving the operation of the trial courts.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be not adopted.

Strike everything after the enacting clause and insert the following:

"JURISDICTIONAL PROVISIONS

Sec. 1. RCW 3.66.020 and 2007 c 46 s 1 are each amended to read as follows:

If the value of the claim or the amount at issue does not exceed ((~~fifty~~)) seventy-five thousand dollars, exclusive of interest, costs, and attorneys' fees, the district court shall have jurisdiction and cognizance of the following civil actions and proceedings:

(1) Actions arising on contract for the recovery of money;

(2) Actions for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised by the answer involves the plaintiff's title to or possession of the same and actions to recover the possession of personal property;

(3) Actions for a penalty;

(4) Actions upon a bond conditioned for the payment of money, when the amount claimed does not exceed fifty thousand dollars, though the penalty of the bond exceeds that sum, the judgment to be given for the sum actually due, not exceeding the amount claimed in the complaint;

(5) Actions on an undertaking or surety bond taken by the court;

(6) Actions for damages for fraud in the sale, purchase, or exchange of personal property;

(7) Proceedings to take and enter judgment on confession of a defendant;

(8) Proceedings to issue writs of attachment, garnishment and replevin upon goods, chattels, moneys, and effects;

(9) Actions arising under the provisions of chapter 19.190 RCW;

(10) Proceedings to civilly enforce any money judgment entered in any municipal court or municipal department of a district court organized under the laws of this state; and

(11) All other actions and proceedings of which jurisdiction is specially conferred by statute, when the title to, or right of possession of, real property is not involved.

Sec. 2. RCW 12.40.010 and 2001 c 154 s 1 are each amended to read as follows:

In every district court there shall be created and organized by the court a department to be known as the "small claims department of the district court." The small claims department shall have jurisdiction, but not exclusive, in cases for the recovery of money only if the amount claimed does not exceed ((~~four~~)) five thousand dollars.

MUNICIPAL COURT CONTRACTING

Sec. 3. RCW 3.50.003 and 1984 c 258 s 125 are each amended to read as follows:

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

(1) "City" means an incorporated city or town.

(2) "Contracting city" means any city that contracts with a hosting jurisdiction for the delivery of judicial services.

(3) "Hosting jurisdiction" means a county or city designated in an interlocal agreement as receiving compensation for providing judicial services to a contracting city.

(4) "Mayor((,))" ((~~as used in this chapter,~~)) means the mayor, city manager, or other chief administrative officer of the city.

NEW SECTION. **Sec. 4.** A new section is added to chapter 3.50 RCW to read as follows:

A city may meet the requirements of RCW 39.34.180 by entering into an interlocal agreement with the county in which the city is located or with one or more cities.

Sec. 5. RCW 3.50.020 and 2005 c 282 s 14 are each amended to read as follows:

The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city ((~~in which the municipal court is located~~)) and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. A hosting jurisdiction shall have exclusive original criminal and other jurisdiction as described in this section for all matters filed by a contracting city. The municipal court shall also have the jurisdiction as conferred by statute. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. A municipal court participating in the program established by the administrative office of the courts pursuant to RCW 2.56.160 shall have jurisdiction to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any court of limited jurisdiction participating in the program.

COURT COMMISSIONERS

Sec. 6. RCW 3.42.020 and 1984 c 258 s 31 are each amended to read as follows:

Each district court commissioner shall have such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess and shall prescribe, except that when serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters, or jury trials in civil matters unless agreed to on the record by all parties.

Sec. 7. RCW 3.34.110 and 1984 c 258 s 17 are each amended to read as follows:

(1) A district ((~~judge~~)) court judicial officer shall not ((~~act as judge~~)) preside in any of the following cases:

(((~~(1)~~))) (a) In an action to which the ((~~judge~~)) judicial officer is a party, or in which the ((~~judge~~)) judicial officer is directly interested, or in which the ((~~judge~~)) judicial officer has been an attorney for a party.

(((~~(2)~~))) (b) When the ((~~judge~~)) judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the ((~~judge~~)) judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of ((~~judges shall be~~)) judicial officer is allowed each party ((~~under this subsection~~)) in an action or proceeding.

(2) When a ((~~judge~~)) judicial officer is disqualified under this section, the case shall be heard before another ((~~judge or judge pro tempore~~)) judicial officer of the same county.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

Sec. 8. RCW 3.50.075 and 1994 c 10 s 1 are each amended to read as follows:

(1) One or more court commissioners may be appointed by a judge of the municipal court.

(2) Each commissioner holds office at the pleasure of the appointing judge.

(3) A commissioner authorized to hear or dispose of cases must be a lawyer who is admitted to practice law in the state of Washington or a nonlawyer who has passed the qualifying examination for lay judges for courts of limited jurisdiction under RCW 3.34.060.

(4) When serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters, or jury trials in civil matters unless agreed to on the record by all parties.

(5) A commissioner need not be a resident of the city or of the county in which the municipal court is created. When a court commissioner has not been appointed and the municipal court is presided over by a part-time appointed judge, the judge need not be a resident of the city or of the county in which the municipal court is created.

NEW SECTION. **Sec. 9.** A new section is added to chapter 3.50 RCW to read as follows:

(1) A municipal court judicial officer shall not preside in any of the following cases:

(a) In an action to which the judicial officer is a party, or in which the judicial officer is directly interested, or in which the judicial officer has been an attorney for a party.

(b) When the judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of judicial officer is allowed each party in an action or proceeding.

(2) When a judicial officer is disqualified under this section, the case shall be heard before another judicial officer of the municipality.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

NEW SECTION. **Sec. 10.** A new section is added to chapter 35.20 RCW to read as follows:

(1) A municipal court judicial officer shall not preside in any of the following cases:

(a) In an action to which the judicial officer is a party, or in which the judicial officer is directly interested, or in which the judicial officer has been an attorney for a party.

(b) When the judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of judicial officer is allowed each party in an action or proceeding.

(2) When a judicial officer is disqualified under this section, the case shall be heard before another judicial officer of the municipality.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

MUNICIPAL DEPARTMENTS

NEW SECTION. **Sec. 11.** A new section is added to chapter 3.46 RCW to read as follows:

A municipality operating a municipal department under this chapter prior to July 1, 2008, may continue to operate as if this act was not adopted. Such municipal departments shall remain subject to the provisions of this chapter as this chapter was written prior to the adoption of this act.

NEW SECTION. **Sec. 12.** The following acts or parts of acts are each repealed:

(1) RCW 3.46.010 (Municipal department authorized) and 1984 c 258 s 72 & 1961 c 299 s 35;

(2) RCW 3.46.020 (Judges) and 1987 c 3 s 1, 1984 c 258 s 73, & 1961 c 299 s 36;

(3) RCW 3.46.030 (Jurisdiction) and 2005 c 282 s 13, 2000 c 111 s 5, 1985 c 303 s 13, & 1961 c 299 s 37;

(4) RCW 3.46.040 (Petition) and 1984 c 258 s 74 & 1961 c 299 s 38;

(5) RCW 3.46.050 (Selection of full time judges) and 1975 c 33 s 2 & 1961 c 299 s 39;

(6) RCW 3.46.060 (Selection of part time judges) and 1984 c 258 s 75 & 1961 c 299 s 40;

(7) RCW 3.46.063 (Judicial positions--Filling--Circumstances permitted) and 1993 c 317 s 3;

(8) RCW 3.46.067 (Judges--Residency requirement) and 1993 c 317 s 5;

(9) RCW 3.46.070 (Election) and 1984 c 258 s 76 & 1961 c 299 s 41;

(10) RCW 3.46.080 (Term and removal) and 1984 c 258 s 77 & 1961 c 299 s 42;

(11) RCW 3.46.090 (Salary--City cost) and 1984 c 258 s 78, 1969 ex.s. c 66 s 5, & 1961 c 299 s 43;

(12) RCW 3.46.100 (Vacancy) and 1984 c 258 s 79 & 1961 c 299 s 44;

(13) RCW 3.46.110 (Night sessions) and 1961 c 299 s 45;

(14) RCW 3.46.120 (Revenue--Disposition--Interest) and 2004 c 15 s 7, 1995 c 291 s 2, 1988 c 169 s 1, 1985 c 389 s 3, 1984 c 258 s 303, 1975 1st ex.s. c 241 s 4, & 1961 c 299 s 46;

(15) RCW 3.46.130 (Facilities) and 1961 c 299 s 47;

(16) RCW 3.46.140 (Personnel) and 1961 c 299 s 48;

(17) RCW 3.46.145 (Court commissioners) and 1969 ex.s. c 66 s 6;

(18) RCW 3.46.150 (Termination of municipal department--Transfer agreement--Notice) and 2005 c 433 s 33, 2001 c 68 s 2, 1984 c 258 s 210, & 1961 c 299 s 49;

(19) RCW 3.46.160 (City trial court improvement account--Contributions to account by city--Use of funds) and 2005 c 457 s 2;

(20) RCW 3.42.030 (Transfer of cases to district judge) and 2000 c 164 s 1, 1984 c 258 s 32, & 1961 c 299 s 33; and

(21) RCW 3.50.007 (Cities and towns of four hundred thousand or less to operate municipal court under this chapter or chapter 3.46 RCW--Municipal judges in office on July 1, 1984--Terms) and 1984 c 258 s 102.

MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 13.** This act takes effect July 1, 2008.

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

NEW SECTION. **Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "courts;" strike the remainder of the title and insert "amending RCW 3.66.020, 12.40.010, 3.50.003, 3.50.020, 3.42.020, 3.34.110, and 3.50.075; adding new sections to chapter 3.50 RCW; adding a new section to chapter 35.20 RCW; adding a new section to chapter 3.46 RCW; creating new sections; repealing RCW 3.46.010, 3.46.020, 3.46.030, 3.46.040, 3.46.050, 3.46.060, 3.46.063, 3.46.067, 3.46.070, 3.46.080, 3.46.090, 3.46.100, 3.46.110, 3.46.120, 3.46.130, 3.46.140, 3.46.145, 3.46.150, 3.46.160, 3.42.030, and 3.50.007; and providing an effective date."

The President declared the question before the Senate to be the motion by Senator Kline to not adopt the committee striking amendment by the Committee on Judiciary to Second Substitute House Bill No. 2557.

The motion by Senator Kline carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Kline moved that the following striking amendment by Senators Kline and Carrell be adopted:

Strike everything after the enacting clause and insert the following:

"JURISDICTIONAL PROVISIONS

Sec. 1. RCW 3.66.020 and 2007 c 46 s 1 are each amended to read as follows:

If the value of the claim or the amount at issue does not exceed ((~~fifty~~)) seventy-five thousand dollars, exclusive of interest, costs, and attorneys' fees, the district court shall have jurisdiction and cognizance of the following civil actions and proceedings:

(1) Actions arising on contract for the recovery of money;

(2) Actions for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised by the answer involves the plaintiff's title to or possession of the same and actions to recover the possession of personal property;

(3) Actions for a penalty;

(4) Actions upon a bond conditioned for the payment of money, when the amount claimed does not exceed fifty thousand dollars, though the penalty of the bond exceeds that sum, the judgment to be given for the sum actually due, not exceeding the amount claimed in the complaint;

(5) Actions on an undertaking or surety bond taken by the court;

(6) Actions for damages for fraud in the sale, purchase, or exchange of personal property;

(7) Proceedings to take and enter judgment on confession of a defendant;

(8) Proceedings to issue writs of attachment, garnishment and replevin upon goods, chattels, moneys, and effects;

(9) Actions arising under the provisions of chapter 19.190 RCW;

(10) Proceedings to civilly enforce any money judgment entered in any municipal court or municipal department of a district court organized under the laws of this state; and

(11) All other actions and proceedings of which jurisdiction is specially conferred by statute, when the title to, or right of possession of, real property is not involved.

Sec. 2. RCW 12.40.010 and 2001 c 154 s 1 are each amended to read as follows:

In every district court there shall be created and organized by the court a department to be known as the "small claims department of the district court." The small claims department shall have jurisdiction, but not exclusive, in cases for the recovery of money only if the amount claimed does not exceed ((~~four~~)) five thousand dollars.

MUNICIPAL COURT CONTRACTING

Sec. 3. RCW 3.50.003 and 1984 c 258 s 125 are each amended to read as follows:

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

(1) "City" means an incorporated city or town.

(2) "Contracting city" means any city that contracts with a hosting jurisdiction for the delivery of judicial services.

(3) "Hosting jurisdiction" means a county or city designated in an interlocal agreement as receiving compensation for providing judicial services to a contracting city.

(4) "Mayor((~~,~~))" ((~~as used in this chapter,~~)) means the mayor, city manager, or other chief administrative officer of the city.

NEW SECTION. **Sec. 4.** A new section is added to chapter 3.50 RCW to read as follows:

A city may meet the requirements of RCW 39.34.180 by entering into an interlocal agreement with the county in which the city is located or with one or more cities.

Sec. 5. RCW 3.50.020 and 2005 c 282 s 14 are each amended to read as follows:

The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city ((~~in which the municipal court is located~~)) and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. A hosting jurisdiction shall have exclusive original criminal and other jurisdiction as described in this section for all matters filed by a contracting city. The municipal court shall also have the jurisdiction as conferred by statute. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. A municipal court participating in the program established by the administrative office of the courts pursuant to RCW 2.56.160 shall have jurisdiction to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any court of limited jurisdiction participating in the program.

COURT COMMISSIONERS

Sec. 6. RCW 3.42.020 and 1984 c 258 s 31 are each amended to read as follows:

Each district court commissioner shall have such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess and shall prescribe, except that when serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters, or jury trials in civil matters unless agreed to on the record by all parties.

Sec. 7. RCW 3.34.110 and 1984 c 258 s 17 are each amended to read as follows:

(1) A district ((~~judge~~)) court judicial officer shall not ((~~act as judge~~)) preside in any of the following cases:

(((~~1~~))) (a) In an action to which the ((~~judge~~)) judicial officer is a party, or in which the ((~~judge~~)) judicial officer is directly interested, or in which the ((~~judge~~)) judicial officer has been an attorney for a party.

(((~~2~~))) (b) When the ((~~judge~~)) judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the ((~~judge~~)) judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of ((~~judges shall be~~)) judicial officer is allowed each party ((~~under this subsection~~)) in an action or proceeding.

(2) When a ((~~judge~~)) judicial officer is disqualified under this section, the case shall be heard before another ((~~judge or judge pro tempore~~)) judicial officer of the same county.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

Sec. 8. RCW 3.50.075 and 1994 c 10 s 1 are each amended to read as follows:

(1) One or more court commissioners may be appointed by a judge of the municipal court.

(2) Each commissioner holds office at the pleasure of the appointing judge.

(3) A commissioner authorized to hear or dispose of cases must be a lawyer who is admitted to practice law in the state of Washington or a nonlawyer who has passed, by January 1, 2003, the qualifying examination for lay judges for courts of limited jurisdiction under RCW 3.34.060.

(4) On or after July 1, 2010, when serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters, or jury trials in civil matters unless agreed to on the record by all parties.

(5) A commissioner need not be a resident of the city or of the county in which the municipal court is created. When a

court commissioner has not been appointed and the municipal court is presided over by a part-time appointed judge, the judge need not be a resident of the city or of the county in which the municipal court is created.

NEW SECTION. **Sec. 9.** A new section is added to chapter 3.50 RCW to read as follows:

(1) A municipal court judicial officer shall not preside in any of the following cases:

(a) In an action to which the judicial officer is a party, or in which the judicial officer is directly interested, or in which the judicial officer has been an attorney for a party.

(b) When the judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of judicial officer is allowed each party in an action or proceeding.

(2) When a judicial officer is disqualified under this section, the case shall be heard before another judicial officer of the municipality.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

NEW SECTION. **Sec. 10.** A new section is added to chapter 35.20 RCW to read as follows:

(1) A municipal court judicial officer shall not preside in any of the following cases:

(a) In an action to which the judicial officer is a party, or in which the judicial officer is directly interested, or in which the judicial officer has been an attorney for a party.

(b) When the judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of judicial officer is allowed each party in an action or proceeding.

(2) When a judicial officer is disqualified under this section, the case shall be heard before another judicial officer of the municipality.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

MUNICIPAL DEPARTMENTS

NEW SECTION. **Sec. 11.** A new section is added to chapter 3.46 RCW to read as follows:

A municipality operating a municipal department under this chapter prior to July 1, 2008, may continue to operate as if this act was not adopted. Such municipal departments shall remain subject to the provisions of this chapter as this chapter was written prior to the adoption of this act.

NEW SECTION. **Sec. 12.** The following acts or parts of acts are each repealed:

(1) RCW 3.46.010 (Municipal department authorized) and 1984 c 258 s 72 & 1961 c 299 s 35;

(2) RCW 3.46.020 (Judges) and 1987 c 3 s 1, 1984 c 258 s 73, & 1961 c 299 s 36;

(3) RCW 3.46.030 (Jurisdiction) and 2005 c 282 s 13, 2000 c 111 s 5, 1985 c 303 s 13, & 1961 c 299 s 37;

(4) RCW 3.46.040 (Petition) and 1984 c 258 s 74 & 1961 c 299 s 38;

(5) RCW 3.46.050 (Selection of full time judges) and 1975 c 33 s 2 & 1961 c 299 s 39;

(6) RCW 3.46.060 (Selection of part time judges) and 1984 c 258 s 75 & 1961 c 299 s 40;

(7) RCW 3.46.063 (Judicial positions--Filling--Circumstances permitted) and 1993 c 317 s 3;

(8) RCW 3.46.067 (Judges--Residency requirement) and 1993 c 317 s 5;

(9) RCW 3.46.070 (Election) and 1984 c 258 s 76 & 1961 c 299 s 41;

(10) RCW 3.46.080 (Term and removal) and 1984 c 258 s 77 & 1961 c 299 s 42;

(11) RCW 3.46.090 (Salary--City cost) and 1984 c 258 s 78, 1969 ex.s. c 66 s 5, & 1961 c 299 s 43;

(12) RCW 3.46.100 (Vacancy) and 1984 c 258 s 79 & 1961 c 299 s 44;

(13) RCW 3.46.110 (Night sessions) and 1961 c 299 s 45;

(14) RCW 3.46.120 (Revenue--Disposition--Interest) and 2004 c 15 s 7, 1995 c 291 s 2, 1988 c 169 s 1, 1985 c 389 s 3, 1984 c 258 s 303, 1975 1st ex.s. c 241 s 4, & 1961 c 299 s 46;

(15) RCW 3.46.130 (Facilities) and 1961 c 299 s 47;

(16) RCW 3.46.140 (Personnel) and 1961 c 299 s 48;

(17) RCW 3.46.145 (Court commissioners) and 1969 ex.s. c 66 s 6;

(18) RCW 3.46.150 (Termination of municipal department--Transfer agreement--Notice) and 2005 c 433 s 33, 2001 c 68 s 2, 1984 c 258 s 210, & 1961 c 299 s 49;

(19) RCW 3.46.160 (City trial court improvement account--Contributions to account by city--Use of funds) and 2005 c 457 s 2;

(20) RCW 3.42.030 (Transfer of cases to district judge) and 2000 c 164 s 1, 1984 c 258 s 32, & 1961 c 299 s 33; and

(21) RCW 3.50.007 (Cities and towns of four hundred thousand or less to operate municipal court under this chapter or chapter 3.46 RCW--Municipal judges in office on July 1, 1984--Terms) and 1984 c 258 s 102.

MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 13.** This act takes effect July 1, 2008.

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

Senator Kline 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 Senators Kline and Carrell to Second Substitute House Bill No. 2557.

The motion by Senator Kline 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 "courts;" strike the remainder of the title and insert "amending RCW 3.66.020, 12.40.010, 3.50.003, 3.50.020, 3.42.020, 3.34.110, and 3.50.075; adding new sections to chapter 3.50 RCW; adding a new section to chapter 35.20 RCW; adding a new section to chapter 3.46 RCW; creating a new section; repealing RCW 3.46.010, 3.46.020, 3.46.030, 3.46.040, 3.46.050, 3.46.060, 3.46.063, 3.46.067, 3.46.070, 3.46.080, 3.46.090, 3.46.100, 3.46.110, 3.46.120, 3.46.130, 3.46.140, 3.46.145, 3.46.150, 3.46.160, 3.42.030, and 3.50.007; and providing an effective date."

MOTION

On motion of Senator Kline, the rules were suspended, Second Substitute House Bill No. 2557 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 Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2557 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2557 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator McCaslin - 1

Excused: Senators Murray and Spanel - 2

SECOND SUBSTITUTE HOUSE BILL NO. 2557 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. 6806, by Senators Haugen, Rasmussen and Shin

Providing tax incentives for anaerobic digester production.

MOTIONS

On motion of Senator Rasmussen, Substitute Senate Bill No. 6806 was substituted for Senate Bill No. 6806 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Rasmussen, the rules were suspended, Substitute Senate Bill No. 6806 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rasmussen and Haugen spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6806.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6806 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, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators McAuliffe, Murray and Spanel - 3

SUBSTITUTE SENATE BILL NO. 6806, 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. 2779, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Orcutt, Blake, Chase, McCoy, Lantz and Skinner)

Requiring a specialized forest products permit to sell raw or unprocessed huckleberries.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 76.48 RCW to read as follows:

(1) Except as otherwise provided in this section, no person may sell, or attempt to sell, any amount of raw or unprocessed huckleberries without first obtaining a specialized forest products permit as provided in RCW 76.48.060, regardless if the huckleberries were harvested with the consent of the landowner.

(2) If the possessor of the huckleberries being offered for sale is able to show that the huckleberries originated on land owned by the United States forest service, then the requirements of this section may be satisfied with the display of a valid permit from the United States forest service that lawfully entitles the possessor to harvest the huckleberries in question.

(3) Nothing in this section creates a requirement that a specialized forest products permit is required for an individual to harvest, possess, or transport huckleberries.

(4) Compliance with this section allows an individual to sell, or offer for sale, raw or unprocessed huckleberries. Possession of a specialized forest products permit does not create a right or privilege to harvest huckleberries. Huckleberries may be harvested only with the permission of the landowner and under the terms and conditions established between the landowner and the harvester.

Sec. 2. RCW 76.48.050 and 2005 c 401 s 2 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, specialized forest products permits shall consist of properly completed permit forms validated by the sheriff of the county in which the specialized forest products are to be harvested. Each permit shall be separately numbered and the issuance of the permits shall be by consecutive numbers. All specialized forest products permits shall expire at the end of the calendar year in which issued, or sooner, at the discretion of the ((~~permittor [permitter]~~)) permitter.

(2) A properly completed specialized forest products permit form shall include:

(((~~(1)~~))) (a) The date of its execution and expiration;

((~~(2)~~)) (b) The name, address, telephone number, if any, and signature of the ((~~permittor [permitter]~~)) permitter;

((~~(3)~~)) (c) The name, address, telephone number, if any, and signature of the permittee;

((~~(4)~~)) (d) The type of specialized forest products to be harvested or transported;

((~~(5)~~)) (e) The approximate amount or volume of specialized forest products to be harvested or transported;

((~~(6)~~)) (f) The legal description of the property from which the specialized forest products are to be harvested or transported, including the name of the county, or the state or province if outside the state of Washington;

((~~(7)~~)) (g) A description by local landmarks of where the harvesting is to occur, or from where the specialized forest products are to be transported;

((~~(8)~~)) (h) For cedar products, cedar salvage, and specialty wood, a copy of a map or aerial photograph, with defined permitted boundaries, included as an attachment to the permit;

((~~(9)~~)) (i) A copy of a valid picture identification; and

((~~(10)~~)) (j) Any other condition or limitation which the ((~~permittor [permitter]~~)) permitter may specify.

(3) For permits intended to satisfy the requirements of section 1 of this act relating only to the sale of huckleberries, the specialized forest products permit:

(a) May be obtained from the department of natural resources or the sheriff of any county in the state;

(b) Must, in addition to the requirements of subsection (2) of this section, also contain information relating to where the huckleberries were, or plan to be, harvested, and the approximate amount of huckleberries that are going to be offered for sale; and

(c) Must include a statement designed to inform the possessor that permission from the landowner is still required prior to the harvesting of huckleberries.

(4) Except for the harvesting of Christmas trees, the permit or true copy thereof must be carried by the permittee and the permittee's agents and be available for inspection at all times. For the harvesting of Christmas trees only a single permit or true copy thereof is necessary to be available at the harvest site.

Sec. 3. RCW 76.48.060 and 2005 c 401 s 3 are each amended to read as follows:

(1) A specialized forest products permit validated by the county sheriff shall be obtained by a person prior to:

(a) Harvesting from any lands, including his or her own, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any cedar products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark, or more than five United States gallons of a single species of wild edible mushroom; or

(b) Selling, or offering for sale, any amount of raw or unprocessed huckleberries.

(2) Specialized forest products permit forms shall be provided by the department of natural resources, and shall be made available through the office of the county sheriff to permittees or ((~~permittors [permitters]~~)) permitters in reasonable quantities. A permit form shall be completed in triplicate for each ((~~permittor's [permitter's]~~)) permitter's property on which a permittee harvests specialized forest products. A properly completed permit form shall be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested.

(3) Before a permit form is validated by the sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff is reasonably satisfied as to the truth of the information, the form shall be validated with the sheriff's validation stamp.

(4) Upon validation, the form shall become the specialized forest products permit authorizing the harvesting, possession, or transportation of specialized forest products and the sale of huckleberries, subject to any other conditions or limitations which the ((~~permittor [permitter]~~)) permitter may specify. Two copies of the permit shall be given or mailed to the ((~~permittor [permitter]~~)) permitter, or one copy shall be given or mailed to the ((~~permittor [permitter]~~)) permitter and the other copy given or mailed to the permittee. The original permit shall be retained in the office of the county sheriff validating the permit.

(5) In the event a single land ownership is situated in two or more counties, a specialized forest product permit shall be completed as to the land situated in each county.

(6) While engaged in harvesting of specialized forest products, permittees, or their agents or employees, must have readily available at each harvest site a valid permit or true copy of the permit.

Sec. 4. RCW 76.48.085 and 2005 c 401 s 6 are each amended to read as follows:

(1) Buyers who purchase specialized forest products or huckleberries are required to record:

((~~(1)~~)) (a) The permit number;

((~~(2)~~)) (b) The type of forest product purchased, and whether huckleberries were purchased;

((~~(3)~~)) (c) The permit holder's name; and

((~~(4)~~)) (d) The amount of forest product or huckleberries purchased.

(2) The buyer or processor shall keep a record of this information for a period of one year from the date of purchase and must make the records available for inspection upon demand by authorized enforcement officials.

(3) The buyer of specialized forest products must record the license plate number of the vehicle transporting the forest products or huckleberries on the bill of sale, as well as the seller's permit number on the bill of sale. This section shall not apply to transactions involving Christmas trees.

(4) This section shall not apply to buyers of specialized forest products at the retail sales level.

Sec. 5. RCW 76.48.086 and 1995 c 366 s 16 are each amended to read as follows:

Records of buyers of specialized forest products and huckleberries collected under the requirements of RCW 76.48.085 may be made available to colleges and universities for the purpose of research.

Sec. 6. RCW 76.48.110 and 2005 c 401 s 11 are each amended to read as follows:

(1) Whenever any law enforcement officer has probable cause to believe that a person is harvesting or is in possession of or transporting specialized forest products, or selling or attempting to sell huckleberries, in violation of the provisions of this chapter, he or she may, at the time of making an arrest, seize and take possession of any specialized forest products or huckleberries found. If the specialized forest product is a cedar product, cedar salvage, or specialty wood, at the time of making an arrest the law enforcement officer may seize and take possession of any equipment, vehicles, tools, or paperwork. The law enforcement officer shall provide reasonable protection for the equipment, vehicles, tools, paperwork, or specialized forest products involved during the period of litigation or he or she shall dispose of the equipment, vehicles, tools, paperwork, or specialized forest products at the discretion or order of the court before which the arrested person is ordered to appear.

(2) Upon any disposition of the case by the court, the court shall make a reasonable effort to return the equipment, vehicles, tools, paperwork, huckleberries, or specialized forest products to its rightful owner or pay the proceeds of any sale of specialized forest products or huckleberries less any reasonable expenses of the sale to the rightful owner. If for any reason, the proceeds of the sale cannot be disposed of to the rightful owner, the proceeds, less the reasonable expenses of the sale, shall be paid to the treasurer of the county in which the violation occurred.

The county treasurer shall deposit the same in the county general fund. The return of the equipment, vehicles, tools, paperwork, or specialized forest products or the payment of the proceeds of any sale of products seized to the owner shall not preclude the court from imposing any fine or penalty upon the violator for the violation of the provisions of this chapter.

Sec. 7. RCW 76.48.120 and 2003 c 53 s 373 are each amended to read as follows:

(1) It is unlawful for any person, upon official inquiry, investigation, or other authorized proceedings, to offer as genuine any paper, document, or other instrument in writing purporting to be a specialized forest products permit, or true copy thereof, authorization, sales invoice, or bill of lading, or to make any representation of authority to possess or conduct harvesting or transporting of specialized forest products, or the sale of huckleberries, knowing the same to be in any manner false, fraudulent, forged, or stolen.

(2) Any person who knowingly or intentionally violates this section is guilty of a class C felony punishable by imprisonment in a state correctional institution for a maximum term fixed by the court of not more than five years or by a fine of not more than five thousand dollars, or by both imprisonment and fine.

(3) Whenever any law enforcement officer reasonably suspects that a specialized forest products permit or true copy thereof, authorization, sales invoice, or bill of lading is forged, fraudulent, or stolen, it may be retained by the officer until its authenticity can be verified.

Sec. 8. RCW 76.48.200 and 1995 c 366 s 17 are each amended to read as follows:

Minority groups have long been participants in the specialized forest products and huckleberry harvesting industry. The legislature encourages agencies serving minority communities, community-based organizations, refugee centers, social service agencies, agencies and organizations with expertise in the specialized forest products and huckleberry harvesting industry, and other interested groups to work cooperatively to accomplish the following purposes:

(1) To provide assistance and make referrals on translation services and to assist in translating educational materials, laws, and rules regarding specialized forest products and huckleberries;

(2) To hold clinics to teach techniques for effective picking; and

(3) To work with both minority and nonminority permittees in order to protect resources and foster understanding between minority and nonminority permittees.

To the extent practicable within their existing resources, the commission on Asian-American affairs, the commission on Hispanic affairs, and the department of natural resources are encouraged to coordinate this effort.

Sec. 9. RCW 76.48.020 and 2007 c 392 s 3 are each amended to read as follows:

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

(1) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees which contains the information required by RCW 76.48.080, a sample of which is filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur.

(2) "Bill of lading" means a written or printed itemized list or statement of particulars pertinent to the transportation or possession of a specialized forest product.

(3) "Cascara bark" means the bark of a Cascara tree.

(4) "Cedar processor" means any person who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

(5) "Cedar products" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.

(6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.

(7) "Christmas trees" means any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species.

(8) "Cut or picked evergreen foliage," commonly known as brush, means evergreen boughs, huckleberry foliage, salal, fern, Oregon grape, rhododendron, mosses, bear grass, scotch broom (Cytisus scoparius), and other cut or picked evergreen products. "Cut or picked evergreen foliage" does not mean cones, berries, any foliage that does not remain green year-round, or seeds.

(9) "Harvest" means to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection or contact with the land or vegetation upon which it is or was growing or (b) from the position in which it is lying upon the land.

(10) "Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted with an investigating law enforcement officer in a normal conversational tone.

(11) "Huckleberry" means the following species of edible berries, if they are not nursery grown: *Vaccinium membranaceum*, *Vaccinium deliciosum*, *Vaccinium ovatum*, *Vaccinium parvifolium*, *Vaccinium globulare*, *Vaccinium ovalifolium*, *Vaccinium alaskaense*, *Vaccinium caespitosum*, *Vaccinium occidentale*, *Vaccinium uliginosum*, *Vaccinium myrtillus*, and *Vaccinium scoparium*.

(12) "Landowner" means, with regard to real property, the private owner, the state of Washington or any political subdivision, the federal government, or a person who by deed, contract, or lease has authority to harvest and sell forest products of the property. "Landowner" does not include the purchaser or successful high bidder at a public or private timber sale.

(13) "Native ornamental trees and shrubs" means any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.

(14) "Permit area" means a designated tract of land that may contain single or multiple harvest sites.

(15) "Person" includes the plural and all corporations, foreign or domestic, copartnerships, firms, and associations of persons.

(16) "Processed cedar products" means cedar shakes, shingles, fence posts, hop poles, pickets, stakes, rails, or rounds less than one foot in length.

(17) "Sheriff" means, for the purpose of validating specialized forest products permits, the county sheriff, deputy sheriff, or an authorized employee of the sheriff's office or an agent of the office.

(18) "Specialized forest products" means Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, cedar products, cedar salvage, processed cedar products, specialty wood, wild edible mushrooms, and Cascara bark.

(19) "Specialized forest products permit" means a printed document in a form printed by the department of natural resources, or true copy thereof, that is signed by a landowner or his or her authorized agent or representative, referred to in this chapter as ((~~"permittors [permitters]"~~)) "permitters" and validated by the county sheriff and authorizes a designated person, referred to in this chapter as "permittee," who has also signed the permit, to harvest and transport a designated specialized forest product from land owned or controlled and specified by the ((~~permittor [permitter]~~)) permitter and that is

located in the county where the permit is issued, or sell raw or unprocessed huckleberries.

(20) "Specialty wood" means wood that is:

(a) In logs less than eight feet in length, chunks, slabs, stumps, or burls; and

(b) One or more of the following:

(i) Of the species western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder;

(ii) Without knots in a portion of the surface area at least twenty-one inches long and seven and a quarter inches wide when measured from the outer surface toward the center; or

(iii) Suitable for the purposes of making musical instruments or ornamental boxes.

(21) "Specialty wood buyer" means the first person that receives any specialty wood product after it leaves the harvest site.

(22) "Specialty wood processor" means any person who purchases, takes, or retains possession of specialty wood products or specialty wood salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

(23) "Transportation" means the physical conveyance of specialized forest products outside or off of a harvest site by any means.

(24) "True copy" means a replica of a validated specialized forest products permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and ((~~permittor [permitter]~~)) permitter signing in the space provided on the face of the copy. A true copy will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and ((~~permittor [permitter]~~)) permitter specify an earlier date. A ((~~permittor [permitter]~~)) permitter may require the actual signatures of both the permittee and ((~~permittor [permitter]~~)) permitter for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated, the permittee and ((~~permittor [permitter]~~)) permitter, may condition the use of the true copy to harvesting only, transportation only, possession only, or any combination thereof.

(25) "Wild edible mushrooms" means edible mushrooms not cultivated or propagated by artificial means."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 2779.

The motion by Senator Jacobsen carried and the committee 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 "huckleberries;" strike the remainder of the title and insert "amending RCW 76.48.050, 76.48.060, 76.48.085, 76.48.086, 76.48.110, 76.48.120, 76.48.200, and 76.48.020; and adding a new section to chapter 76.48 RCW."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2779 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators 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 Substitute House Bill No. 2779 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2779 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Delvin - 1

Excused: Senators Murray and Spanel - 2

SUBSTITUTE HOUSE BILL NO. 2779 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

HOUSE BILL NO. 2792, by Representatives Wood, Condotta, Grant, Conway and Quall

Relating to computing breaks in the parimutuel system.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 2792 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 2792.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2792 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Fairley - 1

Excused: Senators Murray and Spanel - 2

HOUSE BILL NO. 2792, 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. 2654, by House Committee on Health Care & Wellness (originally sponsored by Representatives Hinkle, Cody, Moeller, Green and Kenney)

Creating a process for certifying community-based mental health services.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2654 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove 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. 2654.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2654 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Murray and Spanel - 2

SUBSTITUTE HOUSE BILL NO. 2654, 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

HOUSE BILL NO. 2887, by Representatives Fromhold, Crouse, Conway, Wood and Kessler

Authorizing the purchase of an increased benefit multiplier for past judicial service for judges in the public employees' retirement system.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.40.124 and 2007 c 123 s 1 are each amended to read as follows:

(1) Between January 1, 2007, and December 31, 2007, a member of plan 1 or plan 2 employed as a supreme court justice, court of appeals judge, or superior court judge may make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of the election in lieu of future employee and employer contributions to the judicial retirement account plan under chapter 2.14 RCW.

(2)((~~(a)~~)) A member who ((~~chooses to make~~)) made the election under subsection (1) of this section may apply, at the time of filing a written application for retirement with the department, to the department to increase the member's benefit multiplier by an additional one and one-half percent per year of service for the period in which the member served as a justice or judge prior to the election. The member may purchase, beginning with the most recent judicial service, the higher benefit multiplier for ((~~up to seventy percent of~~)) that portion of the member's prior judicial service for which the higher benefit multiplier was not previously purchased, and that would ensure that the member has no more than a seventy-five percent of average final compensation benefit ((~~accrued by age sixty-four for members of plan 1, and age sixty-six for members of plan 2~~)). The member shall pay five percent of the salary earned for each month of service for which the higher benefit multiplier is being purchased, plus ((~~interest as determined by the director~~)) five and one-half percent interest applied from the dates that the service was earned. The purchase price shall not exceed the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier. This payment must be made prior to retirement ((~~and prior to December 31, 2007. After December 31, 2007, a member may purchase the higher benefit multiplier for any of the member's prior judicial service at the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier, as determined by the director~~)), subject to rules adopted by the department.

(((~~(b)~~))) (3) From January 1, 2009, through June 30, 2009, the following members may apply to the department to increase their benefit multiplier by an additional one and one-half percent per year of service for the period in which they served as a justice or judge:

(a) Active members of plan 1 or plan 2 who are not currently employed as a supreme court justice, court of appeals judge, or superior court judge, and who have past service as a supreme court justice, court of appeals judge, or superior court judge; and

(b) Inactive vested members of plan 1 or plan 2 who have separated, have not yet retired, and who have past service as a supreme court justice, court of appeals judge, or superior court judge.

A member eligible under this subsection may purchase the higher benefit multiplier for all or part of the member's prior judicial service beginning with the most recent judicial service. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director.

(4) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

Sec. 2. RCW 41.40.127 and 2007 c 123 s 2 are each amended to read as follows:

(1) Between January 1, 2007, and December 31, 2007, a member of plan 1 or plan 2 employed as a district court judge or municipal court judge may make a one-time irrevocable election, filed in writing with the member's employer and the department, to accrue an additional benefit equal to one and

one-half percent of average final compensation for each year of future service credit from the date of the election.

(2)((~~(a)~~)) A member who ((~~chooses to make~~)) made the election under subsection (1) of this section may apply, at the time of filing a written application for retirement with the department, to the department to increase the member's benefit multiplier by one and one-half percent per year of service for the period in which the member served as a judge prior to the election. The member may purchase, beginning with the most recent judicial service, the higher benefit multiplier for ((~~up to seventy percent of~~)) that portion of the member's prior judicial service for which the higher benefit multiplier was not previously purchased, and that would ensure that the member has no more than a seventy-five percent of average final compensation benefit ((~~accrued by age sixty-four for members of plan 1, and age sixty-six for members of plan 2~~)). The member shall pay five percent of the salary earned for each month of service for which the higher benefit multiplier is being purchased, plus ((~~interest as determined by the director~~)) five and one-half percent interest applied from the dates that the service was earned. The purchase price shall not exceed the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier. This payment must be made prior to retirement ((~~and prior to December 31, 2007. After December 31, 2007, a member may purchase the higher benefit multiplier for any of the member's prior judicial service at the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier, as determined by the director~~)), subject to rules adopted by the department.

((~~(b)~~)) (3) From January 1, 2009, through June 30, 2009, the following members may apply to the department to increase their benefit multiplier by an additional one and one-half percent per year of service for the period in which they served as a justice or judge:

(a) Active members of plan 1 or plan 2 who are not currently employed as a district court judge or municipal court judge, and who have past service as a district court judge or municipal court judge; and

(b) Inactive vested members of plan 1 or plan 2 who have separated, have not yet retired, and who have past service as a district court judge or municipal court judge.

A member eligible under this subsection may purchase the higher benefit multiplier for all or part of the member's prior judicial service beginning with the most recent judicial service. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director.

(4) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

Sec. 3. RCW 41.40.870 and 2007 c 123 s 3 are each amended to read as follows:

(1) Between January 1, 2007, and December 31, 2007, a member of plan 3 employed as a supreme court justice, court of appeals judge, or superior court judge may make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional plan 3 defined benefit equal to six-tenths percent of average final compensation for each year of future service credit from the date of the election in lieu of future employer contributions to the judicial retirement account plan under chapter 2.14 RCW.

(2)((~~(a)~~)) A member who ((~~chooses to make~~)) made the election under subsection (1) of this section may apply, at the time of filing a written application for retirement with the department, to the department to increase the member's benefit multiplier by six-tenths percent per year of service for the period in which the member served as a justice or judge prior to the election. The member may purchase, beginning with the most recent judicial service, the higher benefit multiplier for ((~~up to seventy percent of~~)) that portion of the member's prior judicial service for which the higher benefit multiplier was not previously purchased, and that would ensure that the member has no more than a thirty-seven and one-half percent of average final compensation benefit ((~~accrued by age sixty-six~~)). The member shall pay two and one-half percent of the salary earned for each month of service for which the higher benefit multiplier is being purchased, plus ((~~interest as determined by the director~~)) five and one-half percent interest applied from the dates that the service was earned. The purchase price shall not exceed the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier. This payment must be made prior to retirement ((~~and prior to December 31, 2007. After December 31, 2007, a member may purchase the higher benefit multiplier for any of the member's prior judicial service at the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier, as determined by the director~~)), subject to rules adopted by the department.

((~~(b)~~)) (3) From January 1, 2009, through June 30, 2009, the following members may apply to the department to increase their benefit multiplier by an additional six-tenths percent per year of service for the period in which they served as a justice or judge:

(a) Active members of plan 3 who are not currently employed as a supreme court justice, court of appeals judge, or superior court judge, and who have past service as a supreme court justice, court of appeals judge, or superior court judge; and

(b) Inactive vested members of plan 3 who have separated, have not yet retired, and who have past service as a supreme court justice, court of appeals judge, or superior court judge.

A member eligible under this subsection may purchase the higher benefit multiplier for all or part of the member's prior judicial service beginning with the most recent judicial service. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director.

(4) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

((~~(3)~~)) (5) A member who chooses to make the election under subsection (1) of this section shall contribute a minimum of seven and one-half percent of pay to the member's defined contribution account.

Sec. 4. RCW 41.40.873 and 2007 c 123 s 4 are each amended to read as follows:

(1) Between January 1, 2007, and December 31, 2007, a member of plan 3 employed as a district court judge or municipal court judge may make a one-time irrevocable election, filed in writing with the member's employer and the department, to accrue an additional plan 3 defined benefit equal to six-tenths percent of average final compensation for each year of future service credit from the date of the election.

(2)((~~(a)~~)) A member who ((~~chooses to make~~)) made the election under subsection (1) of this section may apply, at the time of filing a written application for retirement with the department, to the department to increase the member's benefit multiplier by six-tenths percent per year of service for the period in which the member served as a judge prior to the election. The member may purchase, beginning with the most recent judicial service, the higher benefit multiplier for ((~~up to seventy percent of~~)) that portion of the member's prior judicial service for which the higher benefit multiplier was not previously purchased, and that would ensure that the member has no more than a thirty-seven and one-half percent of average final compensation benefit ((~~accrued by age sixty-six~~)). The member shall pay two and one-half percent of the salary earned for each month of service for which the higher benefit multiplier is being purchased, plus ((~~interest as determined by the director~~)) five and one-half percent interest applied from the dates that the service was earned. The purchase price shall not exceed the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier. This payment must be made prior to retirement ((~~and prior to December 31, 2007. After December 31, 2007, a member may purchase the higher benefit multiplier for any of the member's prior judicial service at the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier, as determined by the director~~)), subject to rules adopted by the department.

((~~(b)~~)) (3) From January 1, 2009, through June 30, 2009, the following members may apply to the department to increase their benefit multiplier by an additional six-tenths percent per year of service for the period in which they served as a justice or judge:

(a) Active members of plan 3 who are not currently employed as a district court judge or municipal court judge, and who have past service as a district court judge or municipal court judge; and

(b) Inactive vested members of plan 3 who have separated, have not yet retired, and who have past service as a district court judge or municipal court judge.

A member eligible under this subsection may purchase the higher benefit multiplier for all or part of the member's prior judicial service beginning with the most recent judicial service. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director.

(4) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

((~~(3)~~)) (5) A member who chooses to make the election under subsection (1) of this section shall contribute a minimum of seven and one-half percent of pay to the member's defined contribution account."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 2887.

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

MOTION

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

On page 1, line 3 of the title, after "system;" strike the remainder of the title and insert "and amending RCW 41.40.124, 41.40.127, 41.40.870, and 41.40.873."

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2887 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 Prentice spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Eide, Kline and Sheldon were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2887 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2887 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Excused: Senators Eide, Kline, Murray, Sheldon and Spanel - 5

HOUSE BILL NO. 2887 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

SUBSTITUTE HOUSE BILL NO. 3283, by House Committee on Finance (originally sponsored by Representatives Herrera, Takko, Orcutt, Hurst, Eddy, Sump, Ericks, Fromhold, McCoy, Hudgins, Kelley, Kessler, Dunn, Ormsby, Linville, Roach and McCune)

Relieving active duty military personnel of interest and penalties on delinquent excise taxes.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 82.32 RCW to read as follows:

(1) Subject to the requirements in subsections (2) through (4) of this section, the department shall waive or cancel interest and penalties imposed under this chapter if the interest and penalties are:

(a) Imposed during any period of armed conflict; and

(b) Imposed on a taxpayer where a majority owner of the taxpayer is an individual who is on active duty in the military, and the individual is participating in a conflict and assigned to a duty station outside the territorial boundaries of the United States.

(2) To receive a waiver or cancellation of interest and penalties under this section, the taxpayer must submit to the department a copy of the individual's deployment orders for deployment outside the territorial boundaries of the United States.

(3) The department may not waive or cancel interest and penalties under this section if the gross income of the business exceeded one million dollars in the calendar year prior to the individual's initial deployment outside the United States for the armed conflict. The department may not waive or cancel interest and penalties under this section for a taxpayer for more than twenty-four months.

(4) During any period of armed conflict, for any notice sent to a taxpayer that requires a payment of interest, penalties, or both, the notice must clearly indicate on or in the notice that interest and penalties may be waived under this section for qualifying taxpayers."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 3283.

The motion by Senator Prentice carried and the committee 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 "taxes;" strike the remainder of the title and insert "and adding a new section to chapter 82.32 RCW."

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 3283 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Zarelli 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. 3283 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3283 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Murray and Spanel - 2

SUBSTITUTE HOUSE BILL NO. 3283 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

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3166, by House Committee on Education (originally sponsored by Representatives Sullivan, Priest, Haler, Santos and Ormsby)

Concerning the design of the state assessment system and the WASL.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that, according to a recent report from a consultant retained by the state board of education, there are key policy questions for policymakers to discuss regarding how best to meet the public policy objectives for a statewide assessment system, including whether to maintain the current form of the Washington assessment of student learning or to implement end-of-course assessments. The legislature further finds that because the state's assessment contract will be renegotiated before the end of 2008, the 2008 legislature has an opportunity to provide policy direction in the design of the state assessment system and the design of the Washington assessment of student learning.

Sec. 2. RCW 28A.655.070 and 2007 c 354 s 5 are each amended to read as follows:

(1) The superintendent of public instruction shall develop essential academic learning requirements that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the essential academic learning requirements, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the essential academic learning requirements; and

(b) Review and prioritize the essential academic learning requirements and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the Washington assessment of student learning and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical,

build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its web site any grade level content expectations provided to an assessment vendor for use in constructing the Washington assessment of student learning.

(3)(a) In consultation with the state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system may include a variety of assessment methods, including criterion-referenced and performance-based measures.

(b) Effective with the 2009 administration of the Washington assessment of student learning, the superintendent shall redesign the assessment in the content areas of reading, mathematics, and science in all grades except high school by shortening test administration and reducing the number of short answer and extended response questions.

(4) If the superintendent proposes any modification to the essential academic learning requirements or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

(5) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(12) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(13) The superintendent shall post on the superintendent's web site lists of resources and model assessments in social studies, the arts, and health and fitness.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) When the office of the superintendent of public instruction enters into a new contract for the development and implementation of the statewide assessment system, the superintendent shall take steps to ensure that the assessments are culturally responsive and competent for a diverse population. Additionally, the contract shall provide sufficient flexibility for the legislature to implement statewide end-of-course assessments for high school that measure student achievement of the state standards, if the legislature makes such a decision during the time that the contract is in effect including, but not limited to, the opportunity to sever portions of the contract without liability or penalty and preserving legislative authority to change direction, design, or scope without adverse impact to the state.

(2) This section expires June 1, 2014."

On page 1, line 2 of the title, after "learning;" strike the remainder of the title and insert "amending RCW 28A.655.070; adding a new section to chapter 28A.655 RCW; creating a new section; and providing an expiration date."

The President declared the question before the Senate to be the motion by Senator McAuliffe to not adopt the committee striking amendment by the Committee on Early Learning & K-12 Education to Engrossed Substitute House Bill No. 3166.

The motion by Senator McAuliffe carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator McAuliffe moved that the following striking amendment by Senators McAuliffe, Tom and King be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that, according to a recent report from a consultant retained by the state board of education, end-of-course assessments have certain advantages over comprehensive assessments such as the current form of the Washington assessment of student learning, and in most other areas end-of-course assessments are comparable to comprehensive assessments in meeting public policy objectives for a statewide assessment system. The legislature further finds that because the state's assessment contract will be renegotiated before the end of 2008, the 2008 legislature has an opportunity to provide policy direction in the design of the state assessment system and the design of the Washington assessment of student learning.

Sec. 2. RCW 28A.655.070 and 2007 c 354 s 5 are each amended to read as follows:

(1) The superintendent of public instruction shall develop essential academic learning requirements that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the essential academic learning requirements, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the essential academic learning requirements; and

(b) Review and prioritize the essential academic learning requirements and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the Washington assessment of student learning and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its web site any grade level content expectations provided to an assessment vendor for use in constructing the Washington assessment of student learning.

(3)(a) In consultation with the state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system may include a variety of assessment methods, including criterion-referenced and performance-based measures.

(b) Effective with the 2009 administration of the Washington assessment of student learning, the superintendent shall redesign the assessment in the content areas of reading, mathematics, and science in all grades except high school by shortening test administration and reducing the number of short answer and extended response questions.

(4) If the superintendent proposes any modification to the essential academic learning requirements or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

(5) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(12) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(13) The superintendent shall post on the superintendent's web site lists of resources and model assessments in social studies, the arts, and health and fitness.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) In consultation with the state board of education, the superintendent of public instruction shall develop statewide end-of-course assessments for high school mathematics that measure student achievement of the state mathematics standards. The superintendent shall take steps to ensure that the language of the assessments is responsive to a diverse student population. The superintendent shall develop end-of-course assessments in algebra I, geometry, integrated mathematics I, and integrated mathematics II. The superintendent shall make the algebra I and integrated mathematics I end-of-course assessments available to school districts on an optional basis in the 2009-10 school year. The end-of-course assessments in algebra I, geometry, integrated mathematics I, and integrated mathematics II shall be implemented statewide in the 2010-11 school year.

(2) For the graduating class of 2013 and for purposes of the certificate of academic achievement under RCW 28A.655.061, results from the algebra I end-of-course assessment plus the geometry end-of-course assessment or results from the integrated mathematics I end-of-course assessment plus the integrated mathematics II end-of-course assessment may be used to demonstrate that a student meets the state standard on the mathematics content area of the high school Washington assessment of student learning.

(3) Beginning with the graduating class of 2014 and for purposes of the certificate of academic achievement under RCW 28A.655.061, the mathematics content area of the Washington assessment of student learning shall be assessed using either the algebra I end-of-course assessment plus the geometry end-of-course assessment or the integrated mathematics I end-of-course assessment plus the integrated mathematics II end-of-course assessment. All of the objective alternative assessments available to students under RCW 28A.655.061 and 28A.655.065 shall be available to any student who has taken the sequence of end-of-course assessments once but does not meet the state mathematics standard on the sequence of end-of-course assessments.

(4) The superintendent of public instruction shall report at least annually or more often if necessary to keep the education committees of the legislature informed on each step of the development and implementation process under this section.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of section 3 of this act, referencing section 3 of this act by bill or chapter number and section number, is not provided by June 30, 2008, in the omnibus appropriations act, section 3 of this act is null and void."

Senators McAuliffe and King 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 Senators McAuliffe, Tom and King to Engrossed Substitute House Bill No. 3166.

The motion by Senator McAuliffe 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 "learning;" strike the remainder of the title and insert "amending RCW 28A.655.070; adding a new section to chapter 28A.655 RCW; and creating new sections."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 3166 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Tom spoke in favor of passage of the bill.

Senator Holmquist spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3166 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3166 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Tom, Weinstein and Zarelli - 35

Voting nay: Senators Benton, Carrell, Delvin, Holmquist, Honeyford, Kastama, McCaslin, Morton, Pflug, Roach, Stevens and Swecker - 12

Excused: Senators Murray and Spanel - 2

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3166 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.

MOTION

At 11:04 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 2:10 p.m. by President Owen.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Schoesler moved that Gubernatorial Appointment No. 9305, William J. Gordon, as a member of the Board of Regents, Washington State University, be confirmed.

Senator Schoesler spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

APPOINTMENT OF WILLIAM J. GORDON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9305, William J. Gordon as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9305, William J. Gordon as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 4; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli - 44

Absent: Senators Brown, McDermott, Tom and Weinstein - 4

Excused: Senator Spanel - 1

Gubernatorial Appointment No. 9305, William J. Gordon, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

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 5, 2008.”

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 5, 2008.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2815, by House Committee on Appropriations (originally sponsored by Representatives Dunshee, Priest, Linville, Upthegrove, Nelson, Goodman, Hurst, Lantz, Hunt, Cody, McCoy, Quall, Pettigrew, Fromhold, Dickerson, Darneille, Appleton, Green, Sells, Pedersen, Jarrett, Conway, Morrell, Miloscia, Sullivan, Schual-Berke, McIntire, Williams, Hudgins, Simpson, Ericks, VanDeWege and Ormsby)

Regarding greenhouse gases emissions and providing for green collar jobs. Revised for 2nd Substitute: Providing a framework for reducing greenhouse gas emissions in the Washington economy.

The measure was read the second time.

MOTION

Senator Delvin moved that the following amendment by Senator Delvin be adopted.

On page 2, after line 4, insert the following:

"(3) It is further recognized that nuclear power is a renewable source of energy that has the potential to decrease reliance on imported fuel as well as further the goals of emissions reductions as required in this chapter."

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

Senators Delvin and Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Delvin on page 2, after line 4 to Engrossed Second Substitute House Bill No. 2815.

The motion by Senator Delvin failed and the amendment was not adopted by voice vote.

MOTION

Senator Holmquist moved that the following amendment by Senator Holmquist and others be adopted.

On page 2, after line 4, insert the following:

"(3) It is recognized that hydro power is a renewable source of energy that has the potential to decrease reliance on imported fuel as well as further the goals of emissions reductions as required in this chapter."

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

Senators Holmquist, Schoesler, Parlette and Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist and others on page 2, after line 4 to Engrossed Second Substitute House Bill No. 2815.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Holmquist and others and the amendment was not adopted by the following vote: Yeas, 20; Nays, 28; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Rasmussen, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 20

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Regala, Rockefeller, Shin, Tom and Weinstein - 28

Excused: Senator Spanel - 1

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted.

On page 3, after line 11, insert the following:

"(7) "Green collar jobs" includes only those jobs that are related to new technology developments related to clean energy and does not include any job in existence prior to the effective date of this section."

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

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 3, after line 11 to Engrossed Second Substitute House Bill No. 2815.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator Kastama moved that the following amendment by Senator Kastama and Jacobsen be adopted.

On page 3, on line 29 after "shall" insert "develop a plan to"

Senators Kastama, Honeyford, Sheldon and Delvin spoke in favor of adoption of the amendment.

Senators Rockefeller and Pridemore spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kastama on page 3, line 29 to Engrossed Second Substitute House Bill No. 2815.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Kastama and Jacobsen and the amendment was not adopted by the following vote: Yeas, 20; Nays, 28; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 20

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 28

Excused: Senator Spanel - 1

MOTION

Senator Holmquist moved that the following amendment by Senator Honeyford and others be adopted.

On page 5, beginning on line 28, after "change" strike all material through "sector" on line 31

Beginning on page 16, line 27, strike all of section 8 and insert the following:

"NEW SECTION. **Sec. 8.** The department of transportation, in conjunction with the department of ecology, shall:

(1) By July 1, 2008, establish and convene a collaborative process to develop a design and implementation strategy to achieve greenhouse gas emission reductions in the transportation sector. The collaborative process shall provide for balanced participation by interested parties, including but

not limited to parties representing diverse perspectives on issues relating to growth, development, and transportation.

(2) Provide a report to the legislature, by December 1, 2008, on the findings derived from the collaborative process. Any recommended strategies should be consistent with the program developed under section 4(1)(a) of this act."

On page 1, line 3 of the title, after "28B.50.273;" strike all material through "RCW;"

On page 1, line 5 of the title, after "creating" strike "a new section" and insert "new sections"

Senators Holmquist, Schoesler and Delvin spoke in favor of adoption of the amendment.

Senators Rockefeller, Hatfield and Murray spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford and others on page 5, line 28 to Engrossed Second Substitute House Bill No. 2815.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Honeyford and others and the amendment was not adopted by the following vote: Yeas, 19; Nays, 29; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 19

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 29

Excused: Senator Spanel - 1

MOTION

Senator Morton moved that the following amendment by Senator Morton be adopted.

On page 6, after line 30, insert the following:

"NEW SECTION. **Sec. 5.** A new section is added to chapter 84.36 RCW to read as follows:

The department of revenue shall provide property tax exemptions for private nurseries willing to expand their timber production in an effort to enhance carbon sequestration statewide. For each ten acres of seedlings, the nursery owner must receive a ten percent reduction on the property taxes for the land upon which the seedlings are located."

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

On page 1, line 3 of the title, after "28B.50.273;" insert "adding a new section to chapter 84.36 RCW;"

Senators Morton and Roach spoke in favor of adoption of the amendment.

Senators Rockefeller and Hargrove spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Morton on page 6, after line 30 to Engrossed Second Substitute House Bill No. 2815.

The motion by Senator Morton failed and the amendment was not adopted by voice vote.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted.

On page 6, after line 30, insert the following:

"NEW SECTION. **Sec. 5.** The department of health shall expend twenty-five thousand dollars to assess the benefits of cooling stations for the general public, including but not limited to:

(1) Identification of proper sites to be distributed statewide on a per-capita basis; and

(2) Development of plans for operation in a manner that would not contribute to greenhouse gas emissions."

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

On page 1, line 5 of the title, after "70 RCW;" strike "creating a new section" and insert "creating new sections"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 6, after line 10 to Engrossed Second Substitute House Bill No. 2815.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted.

On page 6, after line 30, insert the following:

"NEW SECTION. **Sec. 5.** (1) The department of ecology shall expend two million dollars to designate a total of four new sites for water storage, two in western Washington and two in eastern Washington, including but not limited to:

(a) Identification of proper sites for water storage;

(b) Development of plans for water storage at those sites; and

(c) Formulation of a preliminary design for the water storage sites.

(2) The department of ecology shall also assess decommissioned mine shafts for purposes of water storage."

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

On page 1, line 5 of the title, after "70 RCW;" strike "creating a new section" and insert "creating new sections"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 6, after line 30 to Engrossed Second Substitute House Bill No. 2815.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator Kastama moved that the following amendment by Senator Kastama and Jacobsen be adopted.

On page 16, on line 30 after "shall" delete "adopt broad statewide goals" and insert "develop a plan".

Senators Kastama and Pflug spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kastama and Jacobsen on page 16, line 30 to Engrossed Second Substitute House Bill No. 2815.

The motion by Senator Kastama failed and the amendment was not adopted by voice vote.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted.

On page 19, line 3, after "counties;" strike "and"

On page 19, line 5, after "lands" insert ";

(f) Impacts and potential unintended consequences on commuters, both urban and rural;

(g) Impacts and potential unintended consequences on personal mobility; and

(h) Impacts and potential unintended consequences on the state's economy"

Senators Honeyford, Schoesler, Sheldon and Parlette spoke in favor of adoption of the amendment.

Senators Rockefeller and Hargrove spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 19, line 3 to Engrossed Second Substitute House Bill No. 2815.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Honeyford and the amendment was not adopted by the following vote: Yeas, 20; Nays, 28; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McAuliffe, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 20

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 28

Excused: Senator Spanel - 1

MOTION

Senator Kastama moved that the following amendment by Senator Kastama and Jacobsen be adopted.

On page 19, on line 12 after "in consultation with the" insert "economic development commission,"

On page 20, on line 20 after "department" insert ", in consulatino with the economic development commission"

On page 20, on line 24 after "department" insert ", in consultation with the economic development commission"

Senators Kastama and Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kastama and Jacobsen on page 19, line 12 to Engrossed Second Substitute House Bill No. 2815.

The motion by Senator Kastama failed and the amendment was not adopted by voice vote.

MOTION

Senator Kastama moved that the following amendment by Senator Kastama and Zarelli be adopted.

On page 22, on line 11 after ";" delete "and"

On page 22, on line 13 after "training" delete "." and insert "; and (E) For the recruitment of significant entrepreneurial researchers as provided for in the plan developed under RCW 43.330.280."

WITHDRAWAL OF AMENDMENT

On motion of Senator Kastama, the amendment by Senator Kastama and Zarelli on page 22, line 11 to Engrossed Second Substitute House Bill No. 2815 was withdrawn.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted.

On page 23, after line 7, insert the following:

"(10) Beginning in 2010, the state workforce training and education coordinating board shall conduct an evaluation of the jobs eradicated as a result of state regulation of greenhouse gas emissions. The evaluation must include, but is not limited to, unemployment rates for skilled workers, earnings, and skilled workers' eligibility for the program established in subsection (9) of this section. The state workforce training and education coordinating board shall report the findings of the evaluation to the governor and the relevant policy committees of the legislature by December 1, 2012."

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 23, after line 7 to Engrossed Second Substitute House Bill No. 2815.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Second Substitute House Bill No. 2815 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Hargrove and Franklin spoke in favor of passage of the bill.

Senators Honeyford, Carrell, Swecker, Delvin and Kastama spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2815.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2815 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 29

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 19

Excused: Senator Spanel - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2815, 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 4:01 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:57 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 4, 2008

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 6184,
SUBSTITUTE SENATE BILL NO. 6309,
SUBSTITUTE SENATE BILL NO. 6544,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 6457,
SUBSTITUTE SENATE BILL NO. 6500,
SENATE BILL NO. 6504,
ENGROSSED SENATE BILL NO. 6591,
SENATE BILL NO. 6685,
SENATE BILL NO. 6753,
SUBSTITUTE SENATE BILL NO. 6770,
SENATE BILL NO. 6837,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5278,
SUBSTITUTE SENATE BILL NO. 6184,
SUBSTITUTE SENATE BILL NO. 6244
SUBSTITUTE SENATE BILL NO. 6260,
SENATE BILL NO. 6271,
SENATE BILL NO. 6283,
SENATE BILL NO. 6284,
SUBSTITUTE SENATE BILL NO. 6309,
SUBSTITUTE SENATE BILL NO. 6322,
SUBSTITUTE SENATE BILL NO. 6324,
SUBSTITUTE SENATE BILL NO. 6457,
SENATE BILL NO. 6464,
SENATE BILL NO. 6465,
SUBSTITUTE SENATE BILL NO. 6500,
SENATE BILL NO. 6504,
SUBSTITUTE SENATE BILL NO. 6544,
ENGROSSED SENATE BILL NO. 6591,
SUBSTITUTE SENATE BILL NO. 6604,
SENATE BILL NO. 6685,
SENATE BILL NO. 6753,
SUBSTITUTE SENATE BILL NO. 6770,
SENATE BILL NO. 6837,

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hargrove moved that Gubernatorial Appointment No. 9335, John Miller, as a member of the Board of Trustees, Peninsula Community College District No. 1, be confirmed.

Senator Hargrove spoke in favor of the motion.

MOTION

On motion of Senator Hobbs, Senator Hatfield was excused.

APPOINTMENT OF JOHN MILLER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9335, John Miller as a member of the Board of Trustees, Peninsula Community College District No. 1.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9335, John Miller as a member of the Board of Trustees, Peninsula Community College District No. 1 and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield,

Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senators Brown and Hewitt - 2

Excused: Senator Spanel - 1

Gubernatorial Appointment No. 9335, John Miller, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Peninsula Community College District No. 1.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1621, by House Committee on Finance (originally sponsored by Representatives B. Sullivan, Sells, Morrell, Lovick, Ormsby, Miloscia, Springer, McCoy, Sullivan, Hasegawa, O'Brien, Roberts, Conway, Wood, Haigh, Rolfes and Simpson)

Preserving manufactured/mobile home communities.

The measure was read the second time.

MOTION

Senator Weinstein moved that the following committee striking amendment by the Committee on Consumer Protection & Housing be adopted.

Strike everything after the enacting clause and insert the following:

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

(a) Manufactured/mobile home communities provide a significant source of homeownership opportunities for Washington residents. However, the increasing closure and conversion of manufactured/mobile home communities to other uses, combined with increasing mobile home lot rents, low vacancy rates in existing manufactured/mobile home communities, and the extremely high cost of moving homes when manufactured/mobile home communities close, increasingly make manufactured/mobile home community living insecure for manufactured/mobile home tenants.

(b) Many tenants who reside in manufactured/mobile home communities are low-income households and senior citizens and are, therefore, those residents most in need of reasonable security in the siting of their manufactured/mobile homes because of the adverse impacts on the health, safety, and welfare of tenants forced to move due to closure, change of use, or discontinuance of manufactured/mobile home communities.

(c) The preservation of manufactured/mobile home communities:

(i) Is a more economical alternative than providing new replacement housing units for tenants who are displaced from closing manufactured/mobile home communities;

(ii) Is a strategy by which all local governments can meet the affordable housing needs of their residents;

(iii) Is a strategy by which local governments planning under RCW 36.70A.040 may meet the housing element of their comprehensive plans as it relates to the provision of housing affordable to all economic sectors; and

(iv) Should be a goal of all housing authorities and local governments.

(d) The loss of manufactured/mobile home communities should not result in a net loss of affordable housing, thus compromising the ability of local governments to meet the affordable housing needs of its residents and the ability of these local governments planning under RCW 36.70A.040 to meet affordable housing goals under chapter 36.70A RCW.

(e) The closure of manufactured/mobile home communities has serious environmental, safety, and financial impacts, including:

(i) Homes that cannot be moved to other locations add to Washington's landfills;

(ii) Homes that are abandoned might attract crime; and

(iii) Vacant homes that will not be reoccupied need to be tested for asbestos and lead, and these toxic materials need to be removed prior to demolition.

(f) The self-governance aspect of tenants owning manufactured/mobile home communities results in a lesser usage of police resources as tenants experience fewer societal conflicts when they own the real estate as well as their homes.

(g) Housing authorities, by their creation and purpose, are the public body corporate and politic of the city or county responsible for addressing the availability of safe and sanitary dwelling accommodations available to persons of low income, senior citizens, and others.

(2) It is the intent of the legislature to encourage and facilitate the preservation of existing manufactured/mobile home communities in the event of voluntary sales of manufactured/mobile home communities and, to the extent necessary and possible, to involve manufactured/mobile home community tenants or an eligible organization representing the interests of tenants, such as a nonprofit organization, housing authority, or local government, in the preservation of manufactured/mobile home communities.

Sec. 2. RCW 59.20.030 and 2003 c 127 s 1 are each amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" as it relates to a mobile home, manufactured home, or park model owned by a tenant in a mobile home park, mobile home park cooperative, or mobile home park subdivision or tenancy in a mobile home lot means the tenant has defaulted in rent and by absence and by words or actions reasonably indicates the intention not to continue tenancy;

(2) "Eligible organization" includes local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations;

(3) "Housing authority" or "authority" means any of the public body corporate and politic created in RCW 35.82.030;

(4) "Landlord" means the owner of a mobile home park and includes the agents of a landlord;

(((~~(3)~~))) (5) "Local government" means a town government, city government, code city government, or county government in the state of Washington;

(6) "Manufactured home" means a single-family dwelling built according to the United States department of housing and urban development manufactured home construction and safety standards act, which is a national preemptive building code. A manufactured home also: (a) Includes plumbing, heating, air conditioning, and electrical systems; (b) is built on a permanent chassis; and (c) can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported, or when installed on the site is three hundred twenty square feet or greater;

(((~~(4)~~))) (7) "Manufactured/mobile home" means either a manufactured home or a mobile home;

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the United States department of housing and urban development code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the United States department of housing and urban development manufactured home construction and safety act;

(((~~(5)~~))) (9) "Mobile home lot" means a portion of a mobile home park or manufactured housing community designated as

the location of one mobile home, manufactured home, or park model and its accessory buildings, and intended for the exclusive use as a primary residence by the occupants of that mobile home, manufactured home, or park model;

((~~(6)~~)) (10) "Mobile home park," ((~~or~~)) "manufactured housing community," or "manufactured/mobile home community" means any real property which is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy;

((~~(7)~~)) (11) "Mobile home park cooperative" or "manufactured housing cooperative" means real property consisting of common areas and two or more lots held out for placement of mobile homes, manufactured homes, or park models in which both the individual lots and the common areas are owned by an association of shareholders which leases or otherwise extends the right to occupy individual lots to its own members;

((~~(8)~~)) (12) "Mobile home park subdivision" or "manufactured housing subdivision" means real property, whether it is called a subdivision, condominium, or planned unit development, consisting of common areas and two or more lots held for placement of mobile homes, manufactured homes, or park models in which there is private ownership of the individual lots and common, undivided ownership of the common areas by owners of the individual lots;

((~~(9)~~)) (13) "Notice of sale" means a notice required under section 4 of this act to be delivered to all tenants of a manufactured/mobile home community and other specified parties within fourteen days after the date on which any advertisement, multiple listing, or public notice advertises that a manufactured/mobile home community is for sale;

(14) "Park model" means a recreational vehicle intended for permanent or semi-permanent installation and is used as a primary residence;

((~~(10)~~)) (15) "Qualified sale of manufactured/mobile home community" means the sale, as defined in RCW 82.45.010, of land and improvements comprising a manufactured/mobile home community that is transferred in a single purchase to a qualified tenant organization or to an eligible organization for the purpose of preserving the property as a manufactured/mobile home community;

(16) "Qualified tenant organization" means a formal organization of tenants within a manufactured/mobile home community, with the only requirement for membership consisting of being a tenant;

(17) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot;

((~~(11)~~)) (18) "Tenant" means any person, except a transient, who rents a mobile home lot;

((~~(12)~~)) (19) "Transient" means a person who rents a mobile home lot for a period of less than one month for purposes other than as a primary residence;

((~~(13)~~)) (20) "Occupant" means any person, including a live-in care provider, other than a tenant, who occupies a mobile home, manufactured home, or park model and mobile home lot.

Sec. 3. RCW 82.45.010 and 2000 2nd sp.s. c 4 s 26 are each amended to read as follows:

(1) As used in this chapter, the term "sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(2) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration. For purposes of this subsection, all acquisitions of persons acting in concert shall be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place. The department of revenue shall adopt standards by rule to determine when persons are acting in concert. In adopting a rule for this purpose, the department shall consider the following:

(a) Persons shall be treated as acting in concert when they have a relationship with each other such that one person influences or controls the actions of another through common ownership; and

(b) When persons are not commonly owned or controlled, they shall be treated as acting in concert only when the unity with which the purchasers have negotiated and will consummate the transfer of ownership interests supports a finding that they are acting as a single entity. If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the acquisitions shall be considered separate acquisitions.

(3) The term "sale" shall not include:

(a) A transfer by gift, devise, or inheritance.

(b) A transfer of any leasehold interest other than of the type mentioned above.

(c) A cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage.

(d) The partition of property by tenants in common by agreement or as the result of a court decree.

(e) The assignment of property or interest in property from one spouse to the other in accordance with the terms of a decree of divorce or in fulfillment of a property settlement agreement.

(f) The assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved.

(g) Transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation.

(h) A mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof.

(i) Any transfer or conveyance made pursuant to a deed of trust or an order of sale by the court in any mortgage, deed of trust, or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage or deed of trust.

(j) A conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration.

(k) A transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed.

(l) The sale of any grave or lot in an established cemetery.

(m) A sale by the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

(n) A sale to a regional transit authority or public corporation under RCW 81.112.320 under a sale/leaseback agreement under RCW 81.112.300.

(o) A transfer of real property, however effected, if it consists of a mere change in identity or form of ownership of an entity where there is no change in the beneficial ownership. These include transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or children: PROVIDED, That if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse, or children voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than (1) the transferor and/or the transferor's spouse or children, (2) a trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of the transfer to the trust, or (3) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within sixty days of becoming due, excise taxes shall become due and payable on the original transfer as otherwise provided by law.

(p)(i) A transfer that for federal income tax purposes does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, including but not limited to nonrecognition of gain or loss because of application of section 332, 337, 351, 368(a)(1), 721, or 731 of the Internal Revenue Code of 1986, as amended.

(ii) However, the transfer described in (p)(i) of this subsection cannot be preceded or followed within a twelve-month period by another transfer or series of transfers, that, when combined with the otherwise exempt transfer or transfers described in (p)(i) of this subsection, results in the transfer of a controlling interest in the entity for valuable consideration, and in which one or more persons previously holding a controlling interest in the entity receive cash or property in exchange for any interest the person or persons acting in concert hold in the entity. This subsection (3)(p)(ii) does not apply to that part of the transfer involving property received that is the real property interest that the person or persons originally contributed to the entity or when one or more persons who did not contribute real property or belong to the entity at a time when real property was purchased receive cash or personal property in exchange for that person or persons' interest in the entity. The real estate excise tax under this subsection (3)(p)(ii) is imposed upon the person or persons who previously held a controlling interest in the entity.

(q) A qualified sale of a manufactured/mobile home community, as defined in RCW 59.20.030, that takes place on or after the effective date of this act but before December 31, 2018.

NEW SECTION. **Sec. 4.** A new section is added to chapter 59.20 RCW to read as follows:

(1) A landlord must provide a written notice of sale of a manufactured/mobile home community by certified mail or personal delivery to:

(a) Each tenant of the manufactured/mobile home community;

(b) The officers of any known qualified tenant organization;

(c) The office of manufactured housing;

(d) The local government within whose jurisdiction all or part of the manufactured/mobile home community exists;

(e) The housing authority within whose jurisdiction all or part of the manufactured/mobile home community exists; and

(f) The Washington state housing finance commission.

(2) A notice of sale must include:

(a) A statement that the landlord intends to sell the manufactured/mobile home community; and

(b) The contact information of the landlord or landlord's agent who is responsible for communicating with the qualified tenant organization or eligible organization regarding the sale of the property.

NEW SECTION. **Sec. 5.** A new section is added to chapter 59.20 RCW to read as follows:

A landlord intending to sell a manufactured/mobile home community is encouraged to negotiate in good faith with qualified tenant organizations and eligible organizations.

Sec. 6. RCW 59.22.050 and 2007 c 432 s 9 are each amended to read as follows:

(1) In order to provide general assistance to manufactured/mobile home resident organizations, qualified tenant organizations, manufactured/mobile home community or park owners, and landlords and tenants, the department shall establish an office of ((~~mobile home affairs~~)) manufactured housing.

This office will provide ((~~an ombudsman service to mobile home park owners and mobile home tenants with respect to problems and disputes between park owners and park residents and to provide~~)), either directly or through contracted services, technical assistance to qualified tenant organizations as defined in RCW 59.20.030 and resident organizations or persons in the process of forming a resident organization pursuant to chapter 59.22 RCW. The office will keep records of its activities in this area.

(2) The office shall administer the mobile home relocation assistance program established in chapter 59.21 RCW, including verifying the eligibility of tenants for relocation assistance.

NEW SECTION. **Sec. 7.** The following acts or parts of acts are each repealed:

(1) RCW 59.23.005 (Findings--Intent) and 1993 c 66 s 1;

(2) RCW 59.23.010 (Obligation of good faith) and 1993 c 66 s 2;

(3) RCW 59.23.015 (Application of chapter--Definition of "notice") and 1993 c 66 s 3;

(4) RCW 59.23.020 (Definitions) and 1993 c 66 s 4;

(5) RCW 59.23.025 (Notice to qualified tenant organization of sale of mobile home park--Time frame for negotiations--Terms--Transfer or sale to relatives) and 1993 c 66 s 5;

(6) RCW 59.23.030 (Improper notice by mobile home park owner--Sale may be set aside--Attorneys' fees) and 1993 c 66 s 6;

(7) RCW 59.23.035 (Notice to mobile home park owner of sale of tenant's mobile home--Time frame for negotiations--Terms--Transfer or sale to relatives) and 1993 c 66 s 7; and

(8) RCW 59.23.040 (Improper notice by mobile home owner--Sale may be set aside--Attorneys' fees) and 1993 c 66 s 8.

NEW SECTION. **Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Consumer Protection & Housing to Engrossed Second Substitute House Bill No. 1621.

The motion by Senator Weinstein carried and the committee 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 "communities;" strike the remainder of the title and insert "amending RCW 59.20.030, 82.45.010, and 59.22.050; adding new sections to chapter 59.20 RCW; creating a new section; and repealing RCW 59.23.005, 59.23.010, 59.23.015, 59.23.020, 59.23.025, 59.23.030, 59.23.035, and 59.23.040."

MOTION

On motion of Senator Weinstein, the rules were suspended, Engrossed Second Substitute House Bill No. 1621 as amended

by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Weinstein and Honeyford 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 House Bill No. 1621 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1621 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

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

Absent: Senators Kline and Roach - 2

Excused: Senator Spanel - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1621 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

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1773, by House Committee on Transportation (originally sponsored by Representatives Clibborn and Jarrett)

Regarding the imposition of tolls. Revised for 2nd Substitute: Concerning the imposition of tolls.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds and declares that it is the policy of the state of Washington to use tolling to provide a source of transportation funding and to encourage effective use of the transportation system.

The legislature intends that the policy framework created by this act will guide subsequent legislation and decisions regarding the tolling of specific facilities and corridors. For each state-owned facility or corridor, the legislature intends that it will authorize the budget and finance plan. Specific issues that may be addressed in the finance plan and budget authorization legislation include the amount of financing required for a facility or corridor, the budget for any construction and operations financed by tolling, whether and how variable pricing will be applied, and the timing of tolling.

The legislature also intends that while the transportation commission, as the toll-setting authority, may set toll rates for facilities, corridors, or systems thereof, the legislature reserves the authority to impose tolls on any state transportation route or facility. Similarly, local or quasi-local entities that retain the power to impose tolls may do so as long as the effect of those tolls on the state highway system is consistent with the policy guidelines detailed in this act. If the imposition of tolls could have an impact on state facilities, the state tolling authority must review and approve such tolls.

NEW SECTION. **Sec. 2.** This subchapter applies only to all state toll bridges and other state toll facilities, excluding the Washington state ferries, first authorized within this state after July 1, 2008.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise:

(1) "Tolling authority" means the governing body that is legally empowered to review and adjust toll rates. Unless otherwise delegated, the transportation commission is the tolling authority for all state highways.

(2) "Eligible toll facility" or "eligible toll facilities" means portions of the state highway system specifically identified by the legislature including, but not limited to, transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bistate facilities, and interconnections between highways.

(3) "Toll revenue" or "revenue from an eligible toll facility" means toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of the eligible toll facility.

NEW SECTION. **Sec. 4.** (1) Unless otherwise delegated, only the legislature may authorize the imposition of tolls on eligible toll facilities.

(2) All revenue from an eligible toll facility must be used only to construct, improve, preserve, maintain, manage, or operate the eligible toll facility on or in which the revenue is collected. Expenditures of toll revenues are subject to appropriation and must be made only:

(a) To cover the operating costs of the eligible toll facility, including necessary maintenance, preservation, administration, and toll enforcement by public law enforcement within the boundaries of the facility;

(b) To meet obligations for the repayment of debt and interest on the eligible toll facilities, and any other associated financing costs including, but not limited to, required reserves and insurance;

(c) To meet any other obligations to provide funding contributions for any projects or operations on the eligible toll facilities;

(d) To provide for the operations of conveyances of people or goods; or

(e) For any other improvements to the eligible toll facilities.

NEW SECTION. **Sec. 5.** Any proposal for the establishment of eligible toll facilities shall consider the following policy guidelines:

(1) Overall direction. Washington should use tolling to encourage effective use of the transportation system and provide a source of transportation funding.

(2) When to use tolling. Tolling should be used when it can be demonstrated to contribute a significant portion of the cost of a project that cannot be funded solely with existing sources or optimize the performance of the transportation system. Such tolling should, in all cases, be fairly and equitably applied in the context of the statewide transportation system and not have significant adverse impacts through the diversion of traffic to other routes that cannot otherwise be reasonably mitigated. Such tolling should also consider relevant social equity, environmental, and economic issues, and should be directed at making progress toward the state's greenhouse gas reduction goals.

(3) Use of toll revenue. All revenue from an eligible toll facility must be used only to improve, preserve, manage, or operate the eligible toll facility on or in which the revenue is collected. Additionally, toll revenue should provide for and encourage the inclusion of recycled and reclaimed construction materials.

(4) Setting toll rates. Toll rates, which may include variable pricing, must be set to meet anticipated funding obligations. To the extent possible, the toll rates should be set to optimize system performance, recognizing necessary trade-offs to generate revenue.

(5) Duration of toll collection. Because transportation infrastructure projects have costs and benefits that extend well beyond those paid for by initial construction funding, tolls on future toll facilities may remain in place to fund additional capacity, capital rehabilitation, maintenance, management, and operations, and to optimize performance of the system.

NEW SECTION. **Sec. 6.** (1) A tolling advisory committee may be created at the direction of the tolling authority for any eligible toll facilities. The tolling authority shall appoint nine members to the committee, all of whom must be permanent residents of the affected project area as defined for each project. Members of the committee shall serve without receiving compensation.

(2) The tolling advisory committee shall serve in an advisory capacity to the tolling authority on all matters related to the imposition of tolls including, but not limited to: (a) The feasibility of providing discounts; (b) the trade-off of lower tolls versus the early retirement of debt; and (c) consideration of variable or time of day pricing.

(3) In setting toll rates, the tolling authority shall consider recommendations of the tolling advisory committee.

NEW SECTION. **Sec. 7.** (1) Unless these powers are otherwise delegated by the legislature, the transportation commission is the tolling authority for the state. The tolling authority shall:

(a) Set toll rates, establish appropriate exemptions, if any, and make adjustments as conditions warrant on eligible toll facilities;

(b) Review toll collection policies, toll operations policies, and toll revenue expenditures on the eligible toll facilities and report annually on this review to the legislature.

(2) The tolling authority, in determining toll rates, shall consider the policy guidelines established in section 5 of this act.

(3) Unless otherwise directed by the legislature, in setting and periodically adjusting toll rates, the tolling authority must ensure that toll rates will generate revenue sufficient to:

(a) Meet the operating costs of the eligible toll facilities, including necessary maintenance, preservation, administration, and toll enforcement by public law enforcement;

(b) Meet obligations for the repayment of debt and interest on the eligible toll facilities, and any other associated financing costs including, but not limited to, required reserves, minimum debt coverage or other appropriate contingency funding, and insurance; and

(c) Meet any other obligations of the tolling authority to provide its proportionate share of funding contributions for any projects or operations of the eligible toll facilities.

(4) The established toll rates may include variable pricing, and should be set to optimize system performance, recognizing necessary trade-offs to generate revenue for the purposes specified in subsection (3) of this section. Tolls may vary for type of vehicle, time of day, traffic conditions, or other factors designed to improve performance of the system.

Sec. 8. RCW 47.56.030 and 2002 c 114 s 19 are each amended to read as follows:

(1) Except as permitted under chapter 47.29 or 47.46 RCW:

(a) Unless otherwise delegated, and subject to section 4 of this act, the department of transportation shall have full charge of the planning, analysis, and 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) Unless otherwise delegated, and subject to section 4 of this act, the department shall have full charge of planning, analysis, and design of all toll facilities. The department may conduct the planning, analysis, and design of toll facilities as necessary to support the legislature's consideration of toll authorization.

(d) The department shall utilize and administer toll collection systems that are simple, unified, and interoperable. To the extent practicable, the department shall avoid the use of toll booths. The department shall set the statewide standards and protocols for all toll facilities within the state, including those authorized by local authorities.

(e) 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 completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (((~~(d)(i)~~))) (e)(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 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.~~))

Sec. 9. RCW 47.56.040 and 1984 c 7 s 248 are each amended to read as follows:

The department is empowered, in accordance with the provisions of this chapter, to provide for the establishment and construction of toll bridges upon any public highways of this state together with approaches thereto wherever it is considered necessary or advantageous and practicable for crossing any stream, body of water, gulch, navigable water, swamp, or other topographical formation whether that formation is within this state or constitutes a boundary between this state and an adjoining state or country. ((~~The necessity or advantage and practicability of any such toll bridge shall be determined by the department, and the feasibility of financing any toll bridge in the manner provided by this chapter shall be a primary consideration and determined according to the best judgment of the department.~~)) For the purpose of obtaining information for the consideration of the department upon the construction of any toll bridge or any other matters pertaining thereto, any cognizant officer or employee of the state shall, upon the request of the department, make reasonable examination, investigation, survey, or reconnaissance for the determination of material facts pertaining thereto and report this to the department. The cost of any such examination, investigation, survey, or reconnaissance shall be borne by the department or office conducting these activities from the funds provided for that department or office for its usual functions.

Sec. 10. RCW 47.56.070 and 1977 ex.s. c 151 s 67 are each amended to read as follows:

The department of transportation may, ((~~with the approval of the transportation commission~~)) in accordance with this chapter, provide for the ((~~establishment,~~)) construction((~~,~~)) and operation of toll tunnels, toll roads, and other facilities necessary for their construction and connection with public highways of the state. It may cause surveys to be made to determine the propriety of their ((~~establishment,~~)) construction((~~,~~)) and operation, and may acquire rights-of-way and other facilities necessary to carry out the provisions hereof; and may issue, sell, and redeem bonds, and deposit and expend them; secure and remit financial and other assistance in the construction thereof; carry insurance thereon; and handle any other matters pertaining thereto, all of which shall be conducted in the same manner and under the same procedure as provided for the ((~~establishing,~~)) constructing, operating, and maintaining of toll bridges by the department, insofar as reasonably consistent and applicable. ((~~No toll facility, toll bridge, toll road, or toll tunnel, shall be combined with any other toll facility for the purpose of financing unless such facilities form a continuous project, to the end that each such facility or project be self-liquidating and self-sustaining.~~))

Sec. 11. RCW 47.56.076 and 2006 c 311 s 19 are each amended to read as follows:

(1) Upon approval of a majority of the voters within its boundaries voting on the ballot proposition, ((~~and with the approval of the state transportation commission or its successor statewide tolling authority,~~)) a regional transportation investment district may authorize vehicle tolls on a local or regional arterial or a state or federal highway within the boundaries of the district. The department shall administer the collection of vehicle tolls authorized on designated facilities unless otherwise specified in law or by contract, and the commission or its successor statewide tolling authority shall set and impose the tolls in amounts sufficient to implement the regional transportation investment plan under RCW 36.120.020.

(2) Consistent with section 4 of this act, vehicle tolls must first be authorized by the legislature if the tolls are imposed on a state route.

(3) Consistent with section 7 of this act, vehicle tolls, including any change in an existing toll rate, must first be reviewed and approved by the tolling authority designated in section 7 of this act if the tolls, or change in toll rate, would have a significant impact, as determined by the tolling authority, on the operation of any state facility.

Sec. 12. RCW 47.56.078 and 2005 c 336 s 25 are each amended to read as follows:

(1) Subject to the provisions under chapter 36.73 RCW, a transportation benefit district may authorize vehicle tolls on state routes or federal highways, city streets, or county roads, within the boundaries of the district, unless otherwise prohibited by law. The department of transportation shall administer the collection of vehicle tolls authorized on state routes or federal highways, unless otherwise specified in law or by contract, and the state transportation commission, or its successor, may approve, set, and impose the tolls in amounts sufficient to implement the district's transportation improvement finance plan. The district shall administer the collection of vehicle tolls authorized on city streets or county roads, and shall set and impose the tolls, only with approval of the transportation commission, in amounts sufficient to implement the district's transportation improvement plan. Tolls may vary for type of vehicle, for time of day, for traffic conditions, and/or other factors designed to improve performance of the facility or the transportation network.

(2) Consistent with section 4 of this act, vehicle tolls must first be authorized by the legislature if the tolls are imposed on a state route.

(3) Consistent with section 7 of this act, vehicle tolls, including any change in an existing toll rate, must first be reviewed and approved by the tolling authority designated in section 7 of this act if the tolls, or change in toll rate, would have a significant impact, as determined by the tolling authority, on the operation of any state facility.

Sec. 13. RCW 47.56.120 and 1977 ex.s. c 151 s 70 are each amended to read as follows:

In the event that ((~~the transportation commission should determine that~~)) any toll bridge should be constructed, all cost thereof including right-of-way, survey, and engineering shall be paid out of any funds available for payment of the cost of such toll bridge under this chapter.

Sec. 14. RCW 47.56.240 and 1984 c 7 s 265 are each amended to read as follows:

Except as otherwise provided in section 7 of this act, the commission is hereby empowered to fix the rates of toll and other charges for all toll bridges built under the terms of this

chapter. Toll charges so fixed may be changed from time to time as conditions warrant. The commission, in establishing toll charges, shall give due consideration to the cost of operating and maintaining such toll bridge or toll bridges including the cost of insurance, and to the amount required annually to meet the redemption of bonds and interest payments on them. The tolls and charges shall be at all times fixed at rates to yield annual revenue equal to annual operating and maintenance expenses including insurance costs and all redemption payments and interest charges of the bonds issued for any particular toll bridge or toll bridges as the bonds become due. The bond redemption and interest payments constitute a first direct ((~~and exclusive~~)) charge and lien on all such tolls and other revenues and interest thereon. Sinking funds created therefrom received from the use and operation of the toll bridge or toll bridges, and such tolls and revenues together with the interest earned thereon shall constitute a trust fund for the security and payment of such bonds and shall not be used or pledged for any other purpose as long as any of these bonds are outstanding and unpaid.

Sec. 15. RCW 35.74.050 and 1965 c 7 s 35.74.050 are each amended to read as follows:

A city or town may build and maintain toll bridges and charge and collect tolls thereon, and to that end may provide a system and elect or appoint persons to operate the same, or the said bridges may be made free, as it may elect.

Consistent with section 7 of this act, any toll proposed under this section, including any change in an existing toll rate, must first be reviewed and approved by the tolling authority designated in section 7 of this act if the toll, or change in toll rate, would have a significant impact, as determined by the tolling authority, on the operation of any state facility.

Sec. 16. RCW 36.120.050 and 2006 c 311 s 13 are each amended to read as follows:

(1) A regional transportation investment district planning committee may, as part of a regional transportation investment plan, recommend the imposition or authorization of some or all of the following revenue sources, which a regional transportation investment district may impose or authorize upon approval of the voters as provided in this chapter:

(a) A regional sales and use tax, as specified in RCW 82.14.430, of up to 0.1 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 investment district;

(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 district. 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 on new or reconstructed local or regional arterials or state ((~~or federal highways~~)) routes within the boundaries of the district, if the following conditions are met:

(i) ((~~Any such toll must be approved by the state transportation commission or its successor statewide tolling authority;~~

~~(ii)~~)) Consistent with section 4 of this act, the vehicle toll must first be authorized by the legislature if the toll is imposed on a state route;

(ii) Consistent with section 7 of this act, the vehicle toll, including any change in an existing toll rate, must first be reviewed and approved by the tolling authority designated in section 7 of this act if the toll, or change in toll rate, would have a significant impact, as determined by the tolling authority, on the operation of any state facility;

(iii) The regional transportation investment plan must identify the facilities that may be tolled; and

((~~(iii)~~)) (iv) Unless otherwise specified by law, the department shall administer the collection of vehicle tolls on designated facilities, and the state transportation commission, or its successor, shall be the tolling authority, and shall act in accordance with section 7 of this act.

(2) Taxes, fees, and tolls may not be imposed or authorized without an affirmative vote of the majority of the voters within the boundaries of the district voting on a ballot proposition as set forth in RCW 36.120.070. Revenues from these taxes and fees may be used only to implement the plan as set forth in this chapter. A district may contract with the state department of revenue or other appropriate entities for administration and collection of any of the taxes or fees authorized in this section.

(3) Existing statewide motor vehicle fuel and special fuel taxes, at the distribution rates in effect on January 1, 2001, are not intended to be altered by this chapter.

Sec. 17. RCW 36.73.040 and 2005 c 336 s 4 are each amended to read as follows:

(1) A transportation benefit district is a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(2) A transportation benefit district constitutes a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the jurisdiction that established the district apply to the district.

(3) To carry out the purposes of this chapter, and subject to the provisions of RCW 36.73.065, a district is authorized to impose the following taxes, fees, charges, and tolls:

(a) A sales and use tax in accordance with RCW 82.14.0455;

(b) A vehicle fee in accordance with RCW 82.80.140;

(c) A fee or charge in accordance with RCW 36.73.120. However, if a county or city within the district area is levying a fee or charge for a transportation improvement, the fee or charge shall be credited against the amount of the fee or charge imposed by the district. Developments consisting of less than twenty residences are exempt from the fee or charge under RCW 36.73.120; and

(d) Vehicle tolls on state routes ((~~or federal highways~~)), city streets, or county roads, within the boundaries of the district, unless otherwise prohibited by law. However, consistent with section 4 of this act, the vehicle toll must first be authorized by the legislature if the toll is imposed on a state route. The department of transportation shall administer the collection of vehicle tolls authorized on state routes ((~~or federal highways~~)), unless otherwise specified in law or by contract, and the state transportation commission, or its successor, may approve, set, and impose the tolls in amounts sufficient to implement the district's transportation improvement finance plan. The district shall administer the collection of vehicle tolls authorized on city streets or county roads, and shall set and impose((~~, only with approval of the transportation commission, or its successor,~~)) the tolls in amounts sufficient to implement the district's transportation improvement plan. However, consistent with section 7 of this act, the vehicle toll, including any change in an existing toll rate, must first be reviewed and approved by the tolling authority designated in section 7 of this act if the toll, or change in toll rate, would have a significant impact, as determined by the tolling authority, on the operation of any state facility.

Sec. 18. RCW 47.29.060 and 2005 c 317 s 6 are each amended to read as follows:

(1) Subject to the limitations in this section, the department may, in connection with the evaluation of eligible projects, consider any financing mechanisms identified under subsections (3) through (5) of this section or any other lawful source, either integrated as part of a project proposal or as a separate, stand-alone proposal to finance a project. Financing may be considered for all or part of a proposed project. A project may be financed in whole or in part with:

(a) The proceeds of grant anticipation revenue bonds authorized by 23 U.S.C. Sec. 122 and applicable state law. Legislative authorization and appropriation is required in order to use this source of financing;

(b) Grants, loans, loan guarantees, lines of credit, revolving lines of credit, or other financing arrangements available under the Transportation Infrastructure Finance and Innovation Act under 23 U.S.C. Sec. 181 et seq., or any other applicable federal law;

(c) Infrastructure loans or assistance from the state infrastructure bank established by RCW 82.44.195;

(d) Federal, state, or local revenues, subject to appropriation by the applicable legislative authority;

(e) User fees, tolls, fares, lease proceeds, rents, gross or net receipts from sales, proceeds from the sale of development rights, franchise fees, or any other lawful form of consideration. However, projects financed by tolls or equivalent funding sources must first be authorized by the legislature under section 4 of this act.

(2) As security for the payment of financing described in this section, the revenues from the project may be pledged, but no such pledge of revenues constitutes in any manner or to any extent a general obligation of the state. Any financing described in this section may be structured on a senior, parity, or subordinate basis to any other financing.

(3) For any transportation project developed under this chapter that is owned, leased, used, or operated by the state, as a public facility, if indebtedness is issued, it must be issued by the state treasurer for the transportation project.

(4) For other public projects defined in RCW 47.29.050(2) that are developed in conjunction with a transportation project, financing necessary to develop, construct, or operate the public project must be approved by the state finance committee or by the governing board of a public benefit corporation as provided in the federal Internal Revenue Code section 63-20;

(5) For projects that are developed in conjunction with a transportation project but are not themselves a public facility or public project, any lawful means of financing may be used.

Sec. 19. RCW 47.58.030 and 1984 c 7 s 290 are each amended to read as follows:

Except as otherwise provided in section 7 of this act, the secretary shall have full charge of the construction of all such improvements and reconstruction work and the construction of any additional bridge, including approaches and connecting highways, that may be authorized under this chapter and the operation of such bridge or bridges, as well as the collection of tolls and other charges for services and facilities thereby afforded. The schedule of charges for the services and facilities shall be fixed and revised from time to time by the commission so that the tolls and revenues collected will yield annual revenue and income sufficient, after payment or allowance for all operating, maintenance, and repair expenses, to pay the interest on all revenue bonds outstanding under the provisions of this chapter for account of the project and to create a sinking fund for the retirement of the revenue bonds at or prior to maturity. The charges shall be continued until all such bonds and interest thereon and unpaid advancements, if any, have been paid.

Sec. 20. RCW 47.60.010 and 1984 c 18 s 1 are each amended to read as follows:

The department is authorized to acquire by lease, charter, contract, purchase, condemnation, or construction, and partly by any or all of such means, and to thereafter operate, improve, and extend, a system of ferries on and crossing Puget Sound and any of its tributary waters and connections thereof, and connecting with the public streets and highways in the state. The system of ferries shall include such boats, vessels, wharves, docks, approaches, landings, franchises, licenses, and appurtenances as shall be determined by the department to be necessary or desirable for efficient operation of the ferry system and best serve the public. Subject to section 4 of this act, the department may in like manner acquire by purchase, condemnation, or construction and include in the ferry system such toll bridges, approaches, and connecting roadways as may be deemed by the department advantageous in channeling traffic to points served by the ferry system. In addition to the powers of acquisition granted by this section, the department is empowered to enter into any contracts, agreements, or leases with any person, firm, or corporation and to thereby provide, on such terms and conditions as it shall determine, for the operation of any ferry or ferries or system thereof, whether acquired by the department or not.

The authority of the department to sell and lease back any state ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec. 168(f)(8) is confirmed. Legal title and all incidents of legal title to any ferry sold and leased back (except for the federal tax benefits attributable to the ownership thereof) shall remain in the state of Washington.

Sec. 21. RCW 53.34.010 and 1984 c 7 s 365 are each amended to read as follows:

In addition to all other powers granted to port districts, any such district may, with the consent of the department of transportation, acquire by condemnation, purchase, lease, or gift, and may construct, reconstruct, maintain, operate, furnish, equip, improve, better, add to, extend, and lease to others in whole or in part and sell in whole or in part any one or more of the following port projects, within or without or partially within and partially without the corporate limits of the district whenever the commission of the district determines that any one or more of such projects are necessary for or convenient to the movement of commercial freight and passenger traffic a part of which traffic moves to, from, or through the territory of the district:

(1) Toll bridges;

(2) Tunnels under or upon the beds of any river, stream, or other body of water, or through mountain ranges.

In connection with the acquisition or construction of any one or more of such projects the port districts may, with the consent of the state department of transportation, further acquire or construct, maintain, operate, or improve limited or unlimited access highway approaches of such length as the commission of such district deems advisable to provide means of interconnection of the facilities with public highways and of ingress and egress to any such project, including plazas and toll booths, and to construct and maintain under, along, over, or across any such project telephone, telegraph, or electric transmission wires and cables, fuel lines, gas transmission lines or mains, water transmission lines or mains, and other mechanical equipment not inconsistent with the appropriate use of the project, all for the purpose of obtaining revenues for the payment of the cost of the project.

Consistent with section 7 of this act, any toll, including any change in an existing toll rate, proposed under this section must first be reviewed and approved by the tolling authority designated in section 7 of this act if the toll, or change in toll rate, would have a significant impact, as determined by the tolling authority, on the operation of any state facility.

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

(1) RCW 47.56.0761 (Regional transportation investment district--Tolls on Lake Washington bridges) and 2006 c 311 s 20; and

(2) RCW 47.56.080 (Construction of toll bridges and issuance of bonds authorized) and 1977 ex.s. c 151 s 68 & 1961 c 13 s 47.56.080.

NEW SECTION. **Sec. 23.** A new section is added to chapter 47.56 RCW to read as follows:

The toll collection account is created in the custody of the state treasurer. All receipts from prepaid customer tolls must be deposited into the account. Distributions from the account may be used only to refund customers' prepaid tolls or for distributions into the appropriate toll facility account. Distributions into the appropriate toll facility account shall be based on charges incurred at each toll facility and shall include a proportionate share of interest earned from amounts deposited into the account. For purposes of accounting, distributions from the account constitute earned toll revenues in the receiving toll facility account at the time of distribution. Only the secretary of transportation or the secretary's designee may authorize distributions from the account. Distributions of revenue and refunds from this account are not subject to the allotment procedures under chapter 43.88 RCW and an appropriation is not required.

Sec. 24. RCW 43.79A.040 and 2007 c 523 s 5, 2007 c 357 s 21, and 2007 c 214 s 14 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 25.** Sections 1 through 7 of this act are each added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008."

NEW SECTION. **Sec. 26.** Sections 23 and 24 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

MOTION

Senator Kastama moved that the following amendment by Senators Kastama and King to the committee striking amendment be adopted.

On page 1, beginning on line 3 of the amendment, strike all of section 1

On page 2, line 32 of the amendment, after "facilities;" insert "or"

On page 2, beginning on line 33 of the amendment, after "(d)" strike all material through "(e)" on line 35

On page 3, beginning on line 1 of the amendment, strike all of section 5

On page 5, line 3 of the amendment, after "the" strike "system" and insert "toll facility"

Renumber the sections consecutively and correct any internal references accordingly.

Correct the title.

Senators Kastama, Swecker, King and Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Murray and Haugen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and King on page 1, line 3 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1773.

The motion by Senator Kastama failed and the amendment to the committee striking amendment was not adopted by a rising vote.

MOTION

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

On page 2, line 23 of the amendment, after "must be", strike "made only", and insert "used exclusively for "highway purposes" as that term is construed in Article II, section 40 of the state Constitution. Within this limitation, such expenditures may be used for the following activities"

Senators Benton and Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Murray and Haugen spoke against adoption of the amendment to the committee striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, line 23 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1773.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Benton to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 19; Nays, 29; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 19

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 29

Excused: Senator Spanel - 1

MOTION

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

On page 2, line 33 of the amendment, after "(d)" strike all material through "(e)" on line 35.

Senators Pflug and Benton spoke in favor of adoption of the amendment to the committee striking amendment.

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

Senator Pflug demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 2, line 33 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1773.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Pflug to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 20; Nays, 28; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 20

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 28

Excused: Senator Spanel - 1

MOTION

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

On page 3, line 14 of the amendment, after "mitigated." , strike all material through line 13.

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Haugen and Murray spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 3, line 14 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1773.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 3, line 32 of the amendment, after "the", strike "system" and insert "toll facility"

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Haugen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 3, line 32 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1773.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 5, line 1, after "for", strike "type of vehicle" and insert "number of vehicle axles"

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Haugen spoke against adoption of the amendment to the committee striking amendment.

PARLIAMENTARY INQUIRY

Senator Hatfield: “Can a remember request a roll call in the middle of their speech…..”

REPLY BY THE PRESIDENT

President Owen: “The President will recognize a request for a roll call as a separate motion. Senator Pflug.”

Senator Pflug demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 5, line 1 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1773.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Pflug to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 19; Nays, 29; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 19

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 29

Excused: Senator Spanel - 1

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Second Substitute House Bill No. 1773.

The motion by Senator Haugen carried and the committee 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 "tolls;" strike the remainder of the title and insert "amending RCW 47.56.030, 47.56.040, 47.56.070, 47.56.076, 47.56.078, 47.56.120, 47.56.240, 35.74.050, 36.120.050, 36.73.040, 47.29.060, 47.58.030, 47.60.010, and 53.34.010; reenacting and amending RCW 43.79A.040; adding new sections to chapter 47.56 RCW; repealing RCW 47.56.0761 and 47.56.080; and declaring an emergency."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Second Substitute House Bill No. 1773 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, Murray and Kilmer spoke in favor of passage of the bill.

Senators Swecker, Benton and Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1773 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1773 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 29

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 19

Excused: Senator Spanel - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1773 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

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3096, by House Committee on Transportation (originally sponsored by Representatives Clibborn and McIntire)

Financing the state route number 520 bridge replacement project.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the replacement of the vulnerable state route number 520 bridge is a matter of urgency for the safety of Washington's traveling public and the needs of the transportation system in central Puget Sound. The state route number 520 bridge is forty-four years old and has a useful remaining life of between thirteen and eighteen years. While one hundred fifteen thousand vehicles travel on the bridge each day, there is an ever present likelihood that wind or an earthquake could suddenly destroy the bridge or render it unusable. Therefore, the state must develop a comprehensive approach to fund a state route number 520 bridge replacement to be constructed by 2018.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.01 RCW to read as follows:

(1) The state route number 520 bridge replacement and HOV project shall be designed to provide six total lanes, with two lanes that are for transit and high-occupancy vehicle travel, and four general purpose lanes.

(2) The state route number 520 bridge replacement and HOV project shall be designed to accommodate effective connections for transit, including high capacity transit, to the light rail station at the University of Washington.

NEW SECTION. **Sec. 3.** A new section is added to chapter 47.56 RCW to read as follows:

The state route number 520 bridge replacement and HOV project finance plan must include:

(1) Recognition of revenue sources that include: One billion seven hundred million dollars in state and federal funds allocated to the project; one billion five hundred million dollars to two billion dollars in tolling revenue, including early tolls that could begin in late 2009; eighty-five million dollars in federal urban partnership grant funds; and other contributions from private and other government sources; and

(2) Recognition of savings to be realized from:

(a) Potential early construction of traffic improvements from the eastern Lake Washington shoreline to 108th Avenue Northeast in Bellevue;

(b) Early construction of a single string of pontoons to support two lanes that are for transit and high-occupancy vehicle travel and four general purpose lanes;

(c) Preconstruction tolling to reduce total financing costs; and

(d) A deferral of the sales taxes paid on construction costs.

NEW SECTION. **Sec. 4.** A new section is added to chapter 47.56 RCW to read as follows:

(1) Following the submission of the report required in section 6 of this act, the department may seek authorization from the legislature to collect tolls on the existing state route number 520 bridge or on a replacement state route number 520 bridge.

(2) The schedule of toll charges must be established by the transportation commission and collected in a manner determined by the department.

NEW SECTION. **Sec. 5.** A new section is added to chapter 47.56 RCW to read as follows:

The department shall work with the federal highways administration to determine the necessary actions for receiving federal authorization to toll the Interstate 90 floating bridge. The department must periodically report the status of those discussions to the governor and the joint transportation committee.

NEW SECTION. **Sec. 6.** (1) The executive director of the Puget Sound regional council, the secretary of the department of transportation or his or her designee, and a member of the state transportation commission from King county shall form a state route number 520 tolling implementation committee.

(2) The committee must:

(a) Evaluate the potential diversion of traffic from state route number 520 to other parts of the transportation system, including state route number 522 and local roadways, when tolls are implemented on state route number 520 or other corridors, and recommend mitigation measures to address the diversion;

(b) Evaluate the most advanced tolling technology to ensure an efficient and timely trip for users of the state route number 520 bridge;

(c) Evaluate available active traffic management technology to determine the most effective options for technology that could manage congestion on the state route number 520 bridge and other impacted facilities;

(d) Explore opportunities to partner with the business community to reduce congestion and financially contribute to the state route number 520 bridge replacement project;

(e) Confer with the mayors and city councils of jurisdictions adjacent to the state route number 520 corridor, the state route number 522 corridor, and the Interstate 90 corridor regarding the implementation of tolls, the impacts that the implementation of tolls might have on the operation of the corridors, the diversion of traffic to local streets, and potential mitigation measures;

(f) Conduct public work sessions and open houses to provide information to citizens, including users of the bridge and business and freight interests, regarding implementation of tolls on the state route number 520 bridge and solicit citizen views on the following items:

(i) Funding a portion of the state route number 520 bridge replacement project with tolls on the existing bridge;

(ii) Funding the state route number 520 bridge replacement project and improvements on the Interstate 90 bridge with a toll paid by drivers on both bridges;

(iii) Providing incentives and choices for users of the state route number 520 bridge replacement project to use transit and to carpool; and

(iv) Implementing variable tolling as a way to reduce congestion on the facility; and

(g) Provide a report to the governor and the legislature by January 2009.

(3) The department of transportation shall provide staff support to the committee.

NEW SECTION. **Sec. 7.** A new section is added to chapter 47.01 RCW to read as follows:

(1)(a) Any person involved in the construction of the state route number 520 bridge replacement and HOV project may apply for deferral of state and local sales and use taxes on the site preparation for, the construction of, the acquisition of any related machinery and equipment that will become a part of, and the rental of equipment for use in, the project.

(b) Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application must contain information regarding estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within sixty days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW and RCW 81.104.170 on the project.

(3) A person granted a tax deferral under this section shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the project is operationally complete. The project is operationally complete under this section when the replacement bridge is constructed and opened to traffic. The first payment is due on December 31st of the fifth calendar year after the certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of a person granted a deferral under this section.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of any private entity granted a deferral under this section.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

(7) For purposes of this section, "person" has the same meaning as in RCW 82.04.030 and also includes the department of transportation.

NEW SECTION. **Sec. 8.** Section 6 of this act expires February 1, 2009."

MOTION

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

On page 1, line 17 of the amendment, after "provide", strike "six", and insert "eight"

On page 1, line 17 of the amendment, after "with", insert "at least"

On page 1, line 18 of the amendment, after "travel, and" insert "at least"

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 1, line 17 to the committee striking amendment to Engrossed Substitute House Bill No. 3096.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 1, line 17, after "provide" insert "at least"

On page 1, line 17, after "with" insert "at least"

On page 1, line 18, after "travel, and" insert "at least"

On page 2, line 12, after "a", strike "single" and insert, "double"

On page 2,line 14, after "lanes" insert, "with the ability to expand to eight lanes in the future"

Senators Pflug and Benton spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Murray and Haugen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 1, line 17 to the committee striking amendment to Engrossed Substitute House Bill No. 3096.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 1, after line 19 of the amendment, insert the following:

"(2) The state route number 520 bridge replacement and HOV project shall be designed and constructed to allow high capacity transit to be accommodated within the six lane configuration."

Renumber the subsections consecutively and correct any internal references accordingly.

Senator Murray spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Marr spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Murray on page 1, after line 19 to the committee striking amendment to Engrossed Substitute House Bill No. 3096.

The motion by Senator Murray failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 1, after line 23 of the amendment, insert the following:

"(3) Prior to pre-construction tolling commencing on the existing state route number 520 bridge, additional transit services must be in operation along the state route number 520 corridor."

Senator Murray spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Marr spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Murray on page 1, after line 23 to the committee striking amendment to Engrossed Substitute House Bill No. 3096.

The motion by Senator Murray failed and the amendment to the committee striking amendment was not adopted by voice vote.

PERSONAL PRIVILEGE

Senator Pflug: "Thank you Mr. President. I think it's important at this conjure, because we have a ways to go in this debate, to clarify when I think are differences between you know members positions and disagreements on how we should build a bridge or impose tolling and I think it should be alright to talk about the different interest of our different constituents. I don't think that it's really quite…"

POINT OF ORDER

Senator Marr: "I would ask whether or not that the comments by the good senator constitute a point of personal privilege or in fact part of debate."

REMARKS BY THE PRESIDENT

President Owen: "The President believes that Senator Pflug that your remarks are not necessarily a point of personal privilege. The President would remind members about that, your own rule, that requires that you not talk about anything other than the subject matter not personalities, not other things but the subject at hand and if you could adhere to that I think these other questions would be moved."

MOTION

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

On page 2, line 4 of the amendment, after "revenue,", strike all material through "2009" on line 5

On page 2, after line 14, strike all material through "costs" on line 15

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Haugen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 2, line 4 to the committee striking amendment to Engrossed Substitute House Bill No. 3096.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 2, after line 16 of the amendment, insert the following:

"(3) All revenue generated by tolls on state route 520 or interstate 90 shall be used for improvement on the corridor in which it is collected for the following purposes:

(a) To cover the operating costs of the eligible toll facility, including necessary preservation, administration, and toll enforcement by public law enforcement within the boundaries of the facility;

(b) To meet obligations for the repayment of debt and interest on the eligible toll facilities, and any other associated

financing costs including, but not limited to, required reserves and insurance."

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

Senator Haugen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, after line 16 to the committee striking amendment to Engrossed Substitute House Bill No. 3096.

The motion by Senator Benton failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 3, after line 25 of the amendment, insert the following:

"(f) Evaluate, in the event that tolls are placed on SR 520 and I-90, the reasonable availability of non-tolled alternatives from affordable housing into the region's major employment centers. In determining the reasonableness of alternatives, the committee should calculate the cost and time involved in taking public transportation from areas of affordable housing to major employment centers and compare the results to the same trip taken in a personal automobile."

Renumber the subsections consecutively and correct any internal references accordingly.

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Haugen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 3, after line 25 to the committee striking amendment to Engrossed Substitute House Bill No. 3096.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 3096.

The motion by Senator Haugen carried and the committee 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 "project;" strike the remainder of the title and insert "adding new sections to chapter 47.01 RCW; adding new sections to chapter 47.56 RCW; creating new sections; and providing an expiration date."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute House Bill No. 3096 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 Haugen spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Hargrove: "Would Senator Haugen yield to a question? Senator Haugen, could you explain how this sales tax deferral will apply to the work that will occur in Grays Harbor County on the pontoon portion of the 520 bridge project?"

Senator Haugen: "Thank you Senator. It is my understanding that the graving dock portion of the Grays Harbor County work is not a part of the 520 bridge project. Since the state may use the facility for other floating bridge projects, dolphin construction, anchors or other projects, not only the 520 bridge. Therefore it is my understanding that any local sales tax collected on the construction on the graving dock will be distributed to the local governments in Grays Harbor County. Regarding the pontoons themselves, it is not the sales tax deferral but rather the issue of the situs of the tax that is relevant. As the pontoons are a part of the 520 bridge project it is my understanding that the local sales tax collected on that project would have not gone to the local governments in Grays Harbor County anyway because the pontoons ultimately end up in King County."

Senators Murray, Swecker and Pflug spoke against passage of the bill.

POINT OF INQUIRY

Senator Weinstein: "Senator Haugen, does the reference in section 2 of the bill to transit and high-occupancy vehicle travel preclude the use of bus rapid transit on the bridge?"

Senator Haugen: "No Senator, it does not preclude bus rapid transit."

Senator Jacobsen spoke in favor of passage of the bill.

Senator Benton spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3096 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3096 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Tom and Weinstein - 29

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Murray, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 19

Excused: Senator Spanel - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3096 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.

MOTION

At 8:07 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Thursday, March 6, 2008.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate