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SIXTY-FIRST LEGISLATURE - REGULAR SESSION

ONE HUNDRED FIRST DAY

House Chamber, Olympia, Wednesday, April 22, 2009

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

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Cheyenne Wang and Taylor Wang. The Speaker (Representative Morris presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Representative Sherry Appleton.

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

INTRODUCTION AND FIRST READING

SB 6121 by Senators Tom, Zarelli and Keiser

AN ACT Relating to the surcharge to fund biotoxin testing and monitoring; amending RCW 77.32.555; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6157 by Senators Prentice, Tom, Hobbs and Fraser

AN ACT Relating to the calculation of compensation for public retirement purposes during the 2009-2011 fiscal biennium; and amending RCW 41.40.010.

Referred to Committee on Ways & Means.

SB 6167 by Senators Kline, Regala and Hargrove

AN ACT Relating to crimes against property; amending RCW 4.24.230, 9A.48.070, 9A.48.080, 9A.48.090, 9A.56.030, 9A.56.040, 9A.56.050, 9A.56.060, 9A.56.096, 9A.56.150, 9A.56.160, 9A.56.170, and 9A.56.350; adding a new section to chapter 9.94A RCW; adding a new section to chapter 3.50 RCW; adding a new section to chapter 3.66 RCW; adding a new section to chapter 35.20 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Ways & Means.

SB 6168 by Senators Tom and Prentice

AN ACT Relating to reducing costs in state elementary and secondary education programs; and amending RCW 28A.415.380, 28A.320.190, 28A.415.340, 28A.300.515, 28A.630.035, 28A.300.130, 28A.245.060, 28A.625.020, 28A.300.520, and 28A.320.125.

Referred to Committee on Ways & Means.

SSB 6172 by Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller and Ranker)

AN ACT Relating to oil spill advisory council; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6179 by Senators Tom, Fairley and Prentice

AN ACT Relating to chemical dependency specialist services; and amending RCW 70.96A.037.

Referred to Committee on Ways & Means.

SB 6181 by Senators Tom, Prentice and Fairley

AN ACT Relating to the intensive resource home pilot; and amending RCW 74.13.800.

Referred to Committee on Ways & Means.

**SUPPLEMENTAL
INTRODUCTION AND FIRST READING**

SSB 6161 by Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

AN ACT Relating to actuarial funding of pension systems; amending RCW 41.45.010, 41.45.035, 41.45.060, 41.45.070, 41.45.150, and 41.45.155; reenacting and amending RCW 41.45.0631; adding a new section to chapter 41.45 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

ESSB 6169 by Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

AN ACT Relating to enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency; amending RCW 82.32.235; and creating a new section.

Referred to Committee on Finance.

ESSB 6170 by Senate Committee on Ways & Means (originally sponsored by Senators Hobbs and Prentice)

AN ACT Relating to environmental tax incentives; amending RCW 81.104.170, 82.14.050, 82.14.060, 82.04.263, 82.04.294, 82.08.9651, 82.12.9651, 82.16.110, 82.16.120, 82.16.130, 82.08.890, 82.12.890, 82.16.010, 82.16.020, and 82.08.020; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.04 RCW; creating new sections; repealing RCW 82.08.813 and 82.12.813; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Finance.

SB 6173 by Senator Prentice

AN ACT Relating to improving sales tax compliance; amending RCW 82.04.470, 82.08.050, 82.08.130, 82.14B.042, 82.14B.200, 82.32.087, 82.32.290, 82.32.291, 82.32.330, 82.72.040, and 82.72.070; reenacting and amending RCW 82.04.050; adding new sections to chapter 82.32 RCW; creating new sections; prescribing penalties; and providing an effective date.

Referred to Committee on Finance.

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

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

There being no objection, the Committee on Rules was relieved of the following bills, and the bills were placed on the second reading calendar:

HOUSE BILL NO. 1614,
HOUSE BILL NO. 2334,

There being no objection, HOUSE BILL NO. 2308 was returned to the Committee on Rules.

MESSAGE FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SENATE BILL NO. 5617 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position in its amendments to ENGROSSED SENATE BILL NO. 5617 and asked the Senate to concur therein.

MESSAGE FROM THE SENATE

April 18, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SENATE BILL NO. 5200 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position in its amendments to ENGROSSED SENATE BILL NO. 5200 and asked the Senate to concur therein.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1103 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 11.84.010 and 1965 c 145 s 11.84.010 are each amended to read as follows:

As used in this chapter:

(1) "Abuser" means any person who participates, either as a principal or an accessory before the fact, in the willful and unlawful financial exploitation of a vulnerable adult.

(2) "Decedent" means:

(a) Any person whose life is taken by a slayer; or

(b) Any deceased person who, at any time during life in which he or she was a vulnerable adult, was the victim of financial exploitation by an abuser.

(3) "Financial exploitation" has the same meaning as provided in RCW 74.34.020, as enacted or hereafter amended.

(4) "Property" includes any real and personal property and any right or interest therein.

(5) "Slayer" (~~shall~~) means any person who participates, either as a principal or an accessory before the fact, in the willful and unlawful killing of any other person.

~~((2) "Decedent" shall mean any person whose life is so taken.~~

~~(3) "Property" shall include any real and personal property and any right or interest therein.)) (6) "Vulnerable adult" has the same meaning as provided in RCW 74.34.020.~~

Sec. 2. RCW 11.84.020 and 1965 c 145 s 11.84.020 are each amended to read as follows:

No slayer or abuser shall in any way acquire any property or receive any benefit as the result of the death of the decedent, but such property shall pass as provided in the sections following.

Sec. 3. RCW 11.84.025 and 1998 c 292 s 502 are each amended to read as follows:

Proceeds payable to a slayer or abuser as the beneficiary of any benefits flowing from one of the retirement systems listed in RCW 41.50.030, by virtue of the decedent's membership in the department of retirement systems or by virtue of the death of decedent, shall be paid instead as designated in RCW 41.04.273.

Sec. 4. RCW 11.84.030 and 2008 c 6 s 624 are each amended to read as follows:

The slayer or abuser shall be deemed to have predeceased the decedent as to property which would have passed from the decedent

or his or her estate to the slayer or abuser under the statutes of descent and distribution or have been acquired by statutory right as surviving spouse or surviving domestic partner or under any agreement made with the decedent under the provisions of RCW 26.16.120 as it now exists or is hereafter amended.

Sec. 5. RCW 11.84.040 and 1965 c 145 s 11.84.040 are each amended to read as follows:

Property which would have passed to or for the benefit of the slayer or abuser by devise or legacy from the decedent shall be distributed as if he or she had predeceased the decedent.

Sec. 6. RCW 11.84.050 and 1965 c 145 s 11.84.050 are each amended to read as follows:

(1) One-half of any property held by the slayer or abuser and the decedent as joint tenants, joint owners or joint obligees shall pass upon the death of the decedent to his or her estate, and the other half shall pass to his or her estate upon the death of the slayer or abuser, unless the slayer or abuser obtains a separation or severance of the property or a decree granting partition.

(2) As to property held jointly by three or more persons, including the slayer or abuser and the decedent, any enrichment which would have accrued to the slayer or abuser as a result of the death of the decedent shall pass to the estate of the decedent. If the slayer or abuser becomes the final survivor, one-half of the property shall immediately pass to the estate of the decedent and the other half shall pass to his or her estate upon the death of the slayer or abuser, unless the slayer or abuser obtains a separation or severance of the property or a decree granting partition.

(3) The provisions of this section shall not affect any enforceable agreement between the parties or any trust arising because a greater proportion of the property has been contributed by one party than by the other.

Sec. 7. RCW 11.84.070 and 1965 c 145 s 11.84.070 are each amended to read as follows:

Any interest in property whether vested or not, held by the slayer or abuser, subject to be divested, diminished in any way or extinguished, if the decedent survives him or her or lives to a certain age, shall be held by the slayer or abuser during his or her lifetime or until the decedent would have reached such age, but shall then pass as if the decedent had died immediately thereafter.

Sec. 8. RCW 11.84.080 and 1965 c 145 s 11.84.080 are each amended to read as follows:

As to any contingent remainder or executory or other future interest held by the slayer or abuser, subject to become vested in him or her or increased in any way for him or her upon the condition of the death of the decedent:

(1) If the interest would not have become vested or increased if he or she had predeceased the decedent, he or she shall be deemed to have so predeceased the decedent;

(2) In any case the interest shall not be vested or increased during the period of the life expectancy of the decedent.

Sec. 9. RCW 11.84.090 and 1965 c 145 s 11.84.090 are each amended to read as follows:

(1) Property appointed by the will of the decedent to or for the benefit of the slayer or abuser shall be distributed as if the slayer or abuser had predeceased the decedent.

(2) Property held either presently or in remainder by the slayer or abuser, subject to be divested by the exercise by the decedent of a power of revocation or a general power of appointment shall pass to the estate of the decedent, and property so held by the slayer or abuser, subject to be divested by the exercise by the decedent of a power of appointment to a particular person or persons or to a class of persons, shall pass to such person or persons, or in equal shares to

the members of such class of persons, exclusive of the slayer or abuser.

Sec. 10. RCW 11.84.100 and 1965 c 145 s 11.84.100 are each amended to read as follows:

(1) Insurance proceeds payable to the slayer or abuser as the beneficiary or assignee of any policy or certificate of insurance on the life of the decedent, or as the survivor of a joint life policy, shall be paid instead to the estate of the decedent, unless the policy or certificate designate some person other than the slayer or abuser or his or her estate as secondary beneficiary to him or her and in which case such proceeds shall be paid to such secondary beneficiary in accordance with the applicable terms of the policy.

(2) If the decedent is beneficiary or assignee of any policy or certificate of insurance on the life of the slayer or abuser, the proceeds shall be paid to the estate of the decedent upon the death of the slayer or abuser, unless the policy names some person other than the slayer or abuser or his or her estate as secondary beneficiary, or unless the slayer or abuser by naming a new beneficiary or assigning the policy performs an act which would have deprived the decedent of his or her interest in the policy if he or she had been living.

Sec. 11. RCW 11.84.110 and 1965 c 145 s 11.84.110 are each amended to read as follows:

Any insurance company making payment according to the terms of its policy or any bank or other person performing an obligation for the slayer or abuser as one of several joint obligees shall not be subjected to additional liability by the terms of this chapter if such payment or performance is made without written notice, at its home office or at an individual's home or business address, of the killing by a slayer or financial exploitation by an abuser.

Sec. 12. RCW 11.84.120 and 1965 c 145 s 11.84.120 are each amended to read as follows:

The provisions of this chapter shall not affect the rights of any person who, before the interests of the slayer or abuser have been adjudicated, purchases or has agreed to purchase, from the slayer or abuser for value and without notice property which the slayer or abuser would have acquired except for the terms of this chapter, but all proceeds received by the slayer or abuser from such sale shall be held by him or her in trust for the persons entitled to the property under the provisions of this chapter, and the slayer or abuser shall also be liable both for any portion of such proceeds which he or she may have dissipated and for any difference between the actual value of the property and the amount of such proceeds.

Sec. 13. RCW 11.84.130 and 1965 c 145 s 11.84.130 are each amended to read as follows:

~~(The)~~ Any record of ~~((his))~~ conviction ~~((of))~~ for having participated in the ~~((willful))~~ willful and unlawful killing of the decedent or for conduct constituting financial exploitation against the decedent, including but not limited to theft, forgery, fraud, identity theft, robbery, burglary, or extortion, shall be admissible in evidence against a claimant of property in any civil ~~((action))~~ proceeding arising under this chapter.

NEW SECTION. Sec. 14. A new section is added to chapter 11.84 RCW to read as follows:

(1) A final judgment of conviction for the willful and unlawful killing of the decedent is conclusive for purposes of determining whether a person is a slayer under this section.

(2) In the absence of a criminal conviction, a superior court finding by a preponderance of the evidence that a person participated in the willful and unlawful killing of the decedent is conclusive for purposes of determining whether a person is a slayer under this section.

NEW SECTION. Sec. 15. A new section is added to chapter 11.84 RCW to read as follows:

(1) A final judgment of conviction for conduct constituting financial exploitation against the decedent, including but not limited to theft, forgery, fraud, identity theft, robbery, burglary, or extortion, is conclusive for purposes of determining whether a person is an abuser under this section.

(2) In the absence of a criminal conviction, a superior court finding by clear, cogent, and convincing evidence that a person participated in conduct constituting financial exploitation against the decedent is conclusive for purposes of determining whether a person is an abuser under this section.

NEW SECTION. Sec. 16. A new section is added to chapter 11.84 RCW to read as follows:

(1) In determining whether a person is an abuser for purposes of this chapter, the court must find by clear, cogent, and convincing evidence that:

(a) The decedent was a vulnerable adult at the time the alleged financial exploitation took place; and

(b) The conduct constituting financial exploitation was willful action or willful inaction causing injury to the property of the vulnerable adult.

(2) A finding of abuse by the department of social and health services is not admissible for any purpose in any claim or proceeding under this chapter.

(3) Except as provided in subsection (2) of this section, evidence of financial exploitation is admissible if it is not inadmissible pursuant to the rules of evidence.

NEW SECTION. Sec. 17. A new section is added to chapter 11.84 RCW to read as follows:

Notwithstanding the provisions of this chapter:

(1) An abuser is entitled to acquire or receive an interest in property or any other benefit described in this chapter if the court determines by clear, cogent, and convincing evidence that the decedent:

(a) Knew of the financial exploitation; and

(b) Subsequently ratified his or her intent to transfer the property interest or benefit to that person.

(2) The court may consider the record of proceedings and in its discretion allow an abuser to acquire or receive an interest in property or any other benefit described in this chapter in any manner the court deems equitable. In determining what is equitable, the court may consider, among other things:

(a) The various elements of the decedent's dispositive scheme;

(b) The decedent's likely intent given the totality of the circumstances; and

(c) The degree of harm resulting from the abuser's financial exploitation of the decedent.

Sec. 18. RCW 26.16.120 and 2008 c 6 s 612 are each amended to read as follows:

Nothing contained in any of the provisions of this chapter or in any law of this state, shall prevent both spouses or both domestic partners from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by both spouses or both domestic partners by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner. Such agreement shall not derogate from the right of

creditors; nor be construed to curtail the powers of the superior court to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party; nor prevent the application of laws governing the community property and inheritance rights of slayers or abusers under chapter 11.84 RCW.

Sec. 19. RCW 41.04.273 and 1998 c 292 s 501 are each amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) ("~~Slayer~~" means a slayer as defined) "Abuser" has the same meaning as provided in RCW 11.84.010.

(b) "~~Decedent~~" means any person (~~whose life is taken by a slayer, and~~) who is entitled to benefits from the Washington state department of retirement systems by written designation or by operation of law;

(i) Whose life is taken by a slayer; or

(ii) Who is deceased and who, at any time during life in which he or she was a vulnerable adult, was the victim of financial exploitation by an abuser, except as provided in section 17 of this act.

(c) "Slayer" means a slayer as defined in RCW 11.84.010.

(2) Property that would have passed to or for the benefit of a beneficiary under one of the retirement systems listed in RCW 41.50.030 shall not pass to that beneficiary if the beneficiary was a slayer or abuser of the decedent and the property shall be distributed as if the slayer or abuser had predeceased the decedent.

(3) A slayer or abuser is deemed to have predeceased the decedent as to property which, by designation or by operation of law, would have passed from the decedent to the slayer or abuser because of the decedent's entitlement to benefits under one of the retirement systems listed in RCW 41.50.030.

(4)(a) The department of retirement systems has no affirmative duty to determine whether a beneficiary is, or is alleged to be, a slayer or abuser. However, upon receipt of written notice that a beneficiary is a defendant in a civil lawsuit or probate proceeding that alleges the beneficiary is a slayer or abuser, or is charged with a crime that, if committed, means the beneficiary is a slayer or abuser, the department of retirement systems shall determine whether the beneficiary is a defendant in such a civil (~~suit~~) proceeding or has been formally charged in court with the crime, or both. If so, the department shall withhold payment of any benefits until:

(i) The case or charges, or both if both are pending, are dismissed;

(ii) The beneficiary is found not guilty in the criminal case or prevails in the civil (~~suit~~) proceeding, or both if both are pending; or

(iii) The beneficiary is convicted or is found to be a slayer or abuser in the civil (~~suit~~) proceeding.

(b) If the case or charges, or both if both are pending, are dismissed or if a beneficiary is found not guilty or prevails in the civil (~~suit~~) proceeding, or both if both are pending, the department shall pay the beneficiary the benefits the beneficiary is entitled to receive. If the beneficiary is convicted or found to be a slayer or abuser in a civil (~~suit~~) proceeding, the department shall distribute the benefits according to subsection (2) of this section.

(5) (~~The slayer's~~) Any record of conviction for having participated in the willful and unlawful killing of the decedent or for conduct constituting financial exploitation against the decedent, including but not limited to theft, forgery, fraud, identity theft, robbery, burglary, or extortion, shall be admissible in evidence against a claimant of property in any civil action arising under this section.

(6) In the absence of a criminal conviction, a superior court may determine:

(a) By a preponderance of the evidence whether a person participated in the willful and unlawful killing of the decedent;

(b) By clear, cogent, and convincing evidence whether a person participated in conduct constituting financial exploitation against the decedent, as provided in chapter 11.84 RCW.

(7) This section shall not subject the department of retirement systems to liability for payment made to a slayer or abuser or alleged slayer or abuser, prior to the department's receipt of written notice that the slayer or abuser has been convicted of, or the alleged slayer or abuser has been formally criminally or civilly charged in court with, the death or financial exploitation of the decedent. If the conviction or civil judgment of a slayer or abuser is reversed on appeal, the department of retirement systems shall not be liable for payment made prior to the receipt of written notice of the reversal to a beneficiary other than the person whose conviction or civil judgment is reversed.

Sec. 20. RCW 11.96A.030 and 2008 c 6 s 927 are each amended to read as follows:

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

(1) "Matter" includes any issue, question, or dispute involving:

(a) The determination of any class of creditors, devisees, legatees, heirs, next of kin, or other persons interested in an estate, trust, nonprobate asset, or with respect to any other asset or property interest passing at death;

(b) The direction of a personal representative or trustee to do or to abstain from doing any act in a fiduciary capacity;

(c) The determination of any question arising in the administration of an estate or trust, or with respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, that may include, without limitation, questions relating to: (i) the construction of wills, trusts, community property agreements, and other writings; (ii) a change of personal representative or trustee; (iii) a change of the situs of a trust; (iv) an accounting from a personal representative or trustee; or (v) the determination of fees for a personal representative or trustee;

(d) The grant to a personal representative or trustee of any necessary or desirable power not otherwise granted in the governing instrument or given by law;

(e) An action or proceeding under chapter 11.84 RCW;

(f) The amendment, reformation, or conformation of a will or a trust instrument to comply with statutes and regulations of the United States internal revenue service in order to achieve qualification for deductions, elections, and other tax requirements, including the qualification of any gift thereunder for the benefit of a surviving spouse who is not a citizen of the United States for the estate tax marital deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the internal revenue code, the qualification of any gift thereunder as a qualified conservation easement as permitted by federal law, or the qualification of any gift for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust; and

((f)) (g) With respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, including joint tenancy property, property subject to a community property agreement, or assets subject to a pay on death or transfer on death designation:

(i) The ascertaining of any class of creditors or others for purposes of chapter 11.18 or 11.42 RCW;

(ii) The ordering of a qualified person, the notice agent, or resident agent, as those terms are defined in chapter 11.42 RCW, or any combination of them, to do or abstain from doing any particular act with respect to a nonprobate asset;

(iii) The ordering of a custodian of any of the decedent's records relating to a nonprobate asset to do or abstain from doing any particular act with respect to those records;

(iv) The determination of any question arising in the administration under chapter 11.18 or 11.42 RCW of a nonprobate asset;

(v) The determination of any questions relating to the abatement, rights of creditors, or other matter relating to the administration, settlement, or final disposition of a nonprobate asset under this title;

(vi) The resolution of any matter referencing this chapter, including a determination of any questions relating to the ownership or distribution of an individual retirement account on the death of the spouse of the account holder as contemplated by RCW 6.15.020(6);

(vii) The resolution of any other matter that could affect the nonprobate asset.

(2) "Notice agent" has the meanings given in RCW 11.42.010.

(3) "Nonprobate assets" has the meaning given in RCW 11.02.005.

(4) "Party" or "parties" means each of the following persons who has an interest in the subject of the particular proceeding and whose name and address are known to, or are reasonably ascertainable by, the petitioner:

(a) The trustor if living;

(b) The trustee;

(c) The personal representative;

(d) An heir;

(e) A beneficiary, including devisees, legatees, and trust beneficiaries;

(f) The surviving spouse or surviving domestic partner of a decedent with respect to his or her interest in the decedent's property;

(g) A guardian ad litem;

(h) A creditor;

(i) Any other person who has an interest in the subject of the particular proceeding;

(j) The attorney general if required under RCW 11.110.120;

(k) Any duly appointed and acting legal representative of a party such as a guardian, special representative, or attorney-in-fact;

(l) Where applicable, the virtual representative of any person described in this subsection the giving of notice to whom would meet notice requirements as provided in RCW 11.96A.120;

(m) Any notice agent, resident agent, or a qualified person, as those terms are defined in chapter 11.42 RCW; and

(n) The owner or the personal representative of the estate of the deceased owner of the nonprobate asset that is the subject of the particular proceeding, if the subject of the particular proceeding relates to the beneficiary's liability to a decedent's estate or creditors under RCW 11.18.200.

(5) "Persons interested in the estate or trust" means the trustor, if living, all persons beneficially interested in the estate or trust, persons holding powers over the trust or estate assets, the attorney general in the case of any charitable trust where the attorney general would be a necessary party to judicial proceedings concerning the trust, and any personal representative or trustee of the estate or trust.

(6) "Principal place of administration of the trust" means the trustee's usual place of business where the day-to-day records

pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business.

(7) The "situs" of a trust means the place where the principal place of administration of the trust is located, unless otherwise provided in the instrument creating the trust.

(8) "Trustee" means any acting and qualified trustee of the trust.

(9) "Representative" and other similar terms refer to a person who virtually represents another under RCW 11.96A.120.

(10) "Citation" or "cite" and other similar terms, when required of a person interested in the estate or trust or a party to a petition, means to give notice as required under RCW 11.96A.100. "Citation" or "cite" and other similar terms, when required of the court, means to order, as authorized under RCW 11.96A.020 and 11.96A.060, and as authorized by law.

NEW SECTION. Sec. 21. A new section is added to chapter 11.84 RCW to read as follows:

The provisions of this act are supplemental to, and do not derogate from, any other statutory or common law proceedings, theories, or remedies including, but not limited to, the common law allocation of the burden of proof or production among the parties."

On page 1, line 1 of the title, after "adults;" strike the remainder of the title and insert "amending RCW 11.84.010, 11.84.020, 11.84.025, 11.84.030, 11.84.040, 11.84.050, 11.84.070, 11.84.080, 11.84.090, 11.84.100, 11.84.110, 11.84.120, 11.84.130, 26.16.120, 41.04.273, and 11.96A.030; and adding new sections to chapter 11.84 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1103 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Moeller spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1103, as amended by the Senate.

MOTION

On motion of Representative Santos, Representatives Conway, Flannigan, Hunter and Springer were excused.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1103, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Cox, Crouse, Dammeier,

Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Conway, Flannigan, Hunter and Springer.

SUBSTITUTE HOUSE BILL NO. 1103, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1148 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that considerable research shows a strong correlation between animal abuse, child abuse, and domestic violence. The legislature intends that perpetrators of domestic violence not be allowed to further terrorize and manipulate their victims, or the children of their victims, by using the threat of violence toward pets.

Sec. 2. RCW 26.50.060 and 2000 c 119 s 15 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(j) Consider the provisions of RCW 9.41.800;

(k) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and

(l) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(~~(f)~~) (g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

Sec. 3. RCW 26.50.110 and 2007 c 173 s 2 are each amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location; (~~(f)~~)

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the

law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation."

On page 1, line 2 of the title, after "violence;" strike the remainder of the title and insert "amending RCW 26.50.060 and 26.50.110; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1148 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Van De Wege spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 1148, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1148, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Conway, Flannigan, Hunter and Springer.

HOUSE BILL NO. 1148, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1172 with the following amendment:

On page 5, line 31, after "forestry;" strike "and"

On page 5, line 33, after "priorities" insert "; and

(d) Land that is in current use as a manufactured/mobile home park as defined in chapter 59.20 RCW"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1172 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Darneille spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1172, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1172, as amended by the Senate, and the

bill passed the House by the following vote: Yeas, 66; Nays, 30; Absent, 0; Excused, 2.

Voting yea: Representatives Anderson, Appleton, Armstrong, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Cox, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Goodman, Grant-Herriot, Green, Haigh, Hasegawa, Hinkle, Hudgins, Hunt, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Priest, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Angel, Bailey, Chandler, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Haler, Herrera, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Excused: Representatives Flannigan and Hunter.

SECOND SUBSTITUTE HOUSE BILL NO. 1172, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on SECOND SUBSTITUTE HOUSE BILL NO. 1172.

BILL HINKLE, 13th District

MESSAGE FROM THE SENATE

April 15, 2009

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1517 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 29A.08.520 and 2005 c 246 s 15 are each amended to read as follows:

(1) ~~((Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration. Additionally, the secretary of state in conjunction with the department of corrections, the Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies shall arrange for a quarterly comparison of a list of known felons with the statewide voter registration list. If a person is found on a felon list and the statewide voter registration list)) For a felony conviction in a Washington state court, the right to vote is provisionally restored as long as the person is not under the authority of the department of corrections. For a felony conviction in a federal court or any state court other than a Washington state court, the right to vote is restored as long as the person is no longer incarcerated.~~

(2)(a) Once the right to vote has been provisionally restored, the sentencing court may revoke the provisional restoration of voting rights if the sentencing court determines that a person has willfully failed to comply with the terms of his or her order to pay legal financial obligations.

(b) If the person has failed to make three payments in a twelve-month period and the county clerk or restitution recipient

requests, the prosecutor shall seek revocation of the provisional restoration of voting rights from the court.

(c) To the extent practicable, the prosecutor and county clerk shall inform a restitution recipient of the recipient's right to ask for the revocation of the provisional restoration of voting rights.

(3) If the court revokes the provisional restoration of voting rights, the revocation shall remain in effect until, upon motion by the person whose provisional voting rights have been revoked, the person shows that he or she has made a good faith effort to pay as defined in RCW 10.82.090.

(4) The county clerk shall enter into a database maintained by the administrator for the courts the names of all persons whose provisional voting rights have been revoked, and update the database for any person whose voting rights have subsequently been restored pursuant to subsection (6) of this section.

(5) At least twice a year, the secretary of state shall compare the list of registered voters to a list of felons who are not eligible to vote as provided in subsections (1) and (3) of this section. If a registered voter is not eligible to vote as provided in this section, the secretary of state or county auditor shall confirm the match through a date of birth comparison and suspend the voter registration from the official state voter registration list. The ~~((canceling authority))~~ secretary of state or county auditor shall send to the person at his or her last known voter registration address and at the department of corrections, if the person is under the authority of the department, a notice of the proposed cancellation and an explanation of the requirements for provisionally and permanently restoring the right to vote ~~((once all terms of sentencing have been completed))~~ and reregistering. ~~((If the person does not respond within thirty days, the registration must be canceled.))~~ To the extent possible, the secretary of state shall time the comparison required by this subsection to allow notice and cancellation of voting rights for ineligible voters prior to a primary or general election.

~~((2))~~ (6) The right to vote may be permanently restored by ~~((; for each felony conviction,))~~ one of the following for each felony conviction:

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

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

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

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

(7) For the purposes of this section, a person is under the authority of the department of corrections if the person is:

(a) Serving a sentence of confinement in the custody of the department of corrections; or

(b) Subject to community custody as defined in RCW 9.94A.030.

Sec. 2. RCW 9.92.066 and 2003 c 66 s 2 are each amended to read as follows:

(1) Upon termination of any suspended sentence under RCW 9.92.060 or 9.95.210, such person may apply to the court for restoration of his or her civil rights not already restored by RCW 29A.08.520. Thereupon the court may in its discretion enter an order directing that such defendant shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he or she has been convicted.

(2)(a) Upon termination of a suspended sentence under RCW 9.92.060 or 9.95.210, the person may apply to the sentencing court for a vacation of the person's record of conviction under RCW

9.94A.640. The court may, in its discretion, clear the record of conviction if it finds the person has met the equivalent of the tests in RCW 9.94A.640(2) as those tests would be applied to a person convicted of a crime committed before July 1, 1984.

(b) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

Sec. 3. RCW 9.94A.637 and 2007 c 171 s 1 are each amended to read as follows:

(1)(a) When an offender has completed all requirements of the sentence, including any and all legal financial obligations, and while under the custody and supervision of the department, the secretary or the secretary's designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(b)(i) When an offender has reached the end of his or her supervision with the department and has completed all the requirements of the sentence except his or her legal financial obligations, the secretary's designee shall provide the county clerk with a notice that the offender has completed all nonfinancial requirements of the sentence.

(ii) When the department has provided the county clerk with notice that an offender has completed all the requirements of the sentence and the offender subsequently satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court, including the notice from the department, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(c) When an offender who is subject to requirements of the sentence in addition to the payment of legal financial obligations either is not subject to supervision by the department or does not complete the requirements while under supervision of the department, it is the offender's responsibility to provide the court with verification of the completion of the sentence conditions other than the payment of legal financial obligations. When the offender satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court that the legal financial obligations have been satisfied. When the court has received both notification from the clerk and adequate verification from the offender that the sentence requirements have been completed, the court shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(2) Every signed certificate and order of discharge shall be filed with the county clerk of the sentencing county. In addition, the court shall send to the department a copy of every signed certificate and order of discharge for offender sentences under the authority of the department. The county clerk shall enter into a database maintained by the administrator for the courts the names of all felons who have

been issued certificates of discharge, the date of discharge, and the date of conviction and offense.

(3) An offender who is not convicted of a violent offense or a sex offense and is sentenced to a term involving community supervision may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision, provided that the offender has completed at least one-half of the term of community supervision and has met all other sentence requirements.

(4) Except as provided in subsection (5) of this section, the discharge shall have the effect of restoring all civil rights (~~(lost by operation of law upon conviction)~~) not already restored by RCW 29A.08.520, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

(5) Unless otherwise ordered by the sentencing court, a certificate of discharge shall not terminate the offender's obligation to comply with an order issued under chapter 10.99 RCW that excludes or prohibits the offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment and sentence. An offender who violates such an order after a certificate of discharge has been issued shall be subject to prosecution according to the chapter under which the order was originally issued.

(6) Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody.

Sec. 4. RCW 9.96.050 and 2007 c 363 s 4 and 2007 c 171 s 2 are each reenacted and amended to read as follows:

(1)(a) When an offender on parole has performed all obligations of his or her release, including any and all legal financial obligations, for such time as shall satisfy the indeterminate sentence review board that his or her final release is not incompatible with the best interests of society and the welfare of the paroled individual, the board may make a final order of discharge and issue a certificate of discharge to the offender.

(b) The board retains the jurisdiction to issue a certificate of discharge after the expiration of the offender's or parolee's maximum statutory sentence. If not earlier granted and any and all legal financial obligations have been paid, the board shall issue a final order of discharge three years from the date of parole unless the parolee is on suspended or revoked status at the expiration of the three years.

(c) The discharge, regardless of when issued, shall have the effect of restoring all civil rights (~~(lost by operation of law upon conviction)~~) not already restored by RCW 29A.08.520, and the certification of discharge shall so state.

(d) This restoration of civil rights shall not restore the right to receive, possess, own, or transport firearms.

(e) The board shall issue a certificate of discharge to the offender in person or by mail to the offender's last known address.

(2) The board shall send to the department of corrections a copy of every signed certificate of discharge for offender sentences under the authority of the department of corrections.

(3) The discharge provided for in this section shall be considered as a part of the sentence of the convicted person and shall

not in any manner be construed as affecting the powers of the governor to pardon any such person.

Sec. 5. RCW 10.64.140 and 2005 c 246 s 1 are each amended to read as follows:

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

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

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

~~((+))~~ (c) The right to vote is provisionally restored as long as the defendant is not under the authority of the department of corrections;

(d) The defendant must reregister before voting;

(e) The provisional right to vote may be revoked if the defendant fails to comply with all the terms of his or her legal financial obligations or an agreement for the payment of legal financial obligations;

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

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

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

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

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

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

(2) For the purposes of this section, a person is under the authority of the department of corrections if the person is:

(a) Serving a sentence of confinement in the custody of the department of corrections; or

(b) Subject to community custody as defined in RCW 9.94A.030.

Sec. 6. RCW 9.94A.885 and 1999 c 323 s 3 are each amended to read as follows:

(1) The clemency and pardons board shall receive petitions from individuals, organizations, and the department for review and commutation of sentences and pardoning of offenders in extraordinary cases, and shall make recommendations thereon to the governor.

(2) The board shall receive petitions from individuals or organizations for the restoration of civil rights lost by operation of state law as a result of convictions for federal offenses or out-of-state felonies. The board may issue certificates of restoration limited to ~~((the elective rights to vote and to engage))~~ engaging in political office. Any certifications granted by the board must be filed with the secretary of state to be effective. In all other cases, the board shall make recommendations to the governor.

(3) The board shall not recommend that the governor grant clemency under subsection (1) of this section until a public hearing has been held on the petition. The prosecuting attorney of the county where the conviction was obtained shall be notified at least thirty days prior to the scheduled hearing that a petition has been filed and the date and place at which the hearing on the petition will be held. The board may waive the thirty-day notice requirement in cases where it determines that waiver is necessary to permit timely action on the petition. A copy of the petition shall be sent to the prosecuting attorney. The prosecuting attorney shall make reasonable efforts to notify victims, survivors of victims, witnesses, and the law

enforcement agency or agencies that conducted the investigation, of the date and place of the hearing. Information regarding victims, survivors of victims, or witnesses receiving this notice are confidential and shall not be available to the offender. The board shall consider written, oral, audio, or videotaped statements regarding the petition received, personally or by representation, from the individuals who receive notice pursuant to this section. This subsection is intended solely for the guidance of the board. Nothing in this section is intended or may be relied upon to create a right or benefit, substantive or procedural, enforceable at law by any person.

NEW SECTION. Sec. 7. RCW 10.64.021 (Notice of conviction) and 1994 c 57 s 1 are each repealed."

On page 1, line 2 of the title, after "felonies;" strike the remainder of the title and insert "amending RCW 29A.08.520, 9.92.066, 9.94A.637, 10.64.140, and 9.94A.885; reenacting and amending RCW 9.96.050; and repealing RCW 10.64.021."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1517 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Darneille spoke in favor of the passage of the bill.

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 1517, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1517, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 52; Nays, 44; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Blake, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Seaquist, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representatives Flannigan and Hunter.

HOUSE BILL NO. 1517, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2208 with the following amendment:

On page 8, after line 1, insert the following:

"NEW SECTION, Sec. 3. This act expires on August 1, 2009."

On page 1, line 2 of the title, after "46.93.170", insert "providing an expiration date;"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2208 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2208, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2208, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liiias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Flannigan and Hunter.

SUBSTITUTE HOUSE BILL NO. 2208, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 18, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SENATE BILL NO. 5359 and asks the House to recede therefrom, and the same is/are herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to SENATE BILL NO. 5359. Under the suspension of the rules, the bill was returned to second reading for the purpose of amendment.

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

SECOND READING

SENATE BILL NO. 5359, by Senators Oemig, Pridemore, Kline and McDermott

Preventing rejection of ballots that have voter identifying marks.

Representative Hunt moved the adoption of amendment (824):

On page 1, line 14, after "other." Strike "((No paper ballot or ballot card may be marked in any way that would permit the identification of the person who voted that ballot.))" and insert "No paper ballot or ballot card may be marked by or at the direction of an election official in any way that would permit the identification of the person who voted that ballot."

On page 1, line 17, after "(2)" remove all material through "official." on page 2, line 15 and insert "An elections official may not enter into or extend any contract with a vendor if such contract may allow the vendor to acquire an ownership interest in any data pertaining to any voter, any voter's address, registration number, or history, or any ballot."

Representatives Hunt and Armstrong spoke in favor of the adoption of the amendment.

Amendment (824) was adopted.

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

Representatives Hunt and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 5359, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5359, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

SENATE BILL NO. 5359, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SENATE BILL NO. 5894 and asks the House to recede therefrom, and the same is/are herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to ENGROSSED SENATE BILL NO. 5894. Under the suspension of the rules, the bill was returned to second reading for the purpose of amendment.

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

SECOND READING**ENGROSSED SENATE BILL NO. 5894, by Senators Haugen and Parlette****Authorizing the utilities and transportation commission to forbear from rate and service regulation of certain transportation services.**

Representative Rolfes moved the adoption of amendment (864):

On page 149, line 13, reduce the general fund--state appropriation by \$1,408,000

On page 149, line 14, increase the general fund--state appropriation by \$1,400,000

On page 149, line 18, correct the total.

On page 149, line 21, after "(1)" strike "\$178,359,000" and insert "\$176,591,000"

On page 149, line 22, after "2010," strike "\$203,171,000" and insert "\$204,571,000"

On page 149, line 29, after "study," insert "Washington scholars"

On page 149, line 32, after "act." strike all material through line 34, "award."

On page 150, line 1, after "below" strike "70" and insert "65"

On page 150, line 4, after "51 and" strike "70" and insert "65"

On page 150, line 7, after "MFI;" strike "65" and insert "68"

On page 150, line 8, after "MFI;" insert "and"

On page 150, beginning on line 10, after "MFI;" strike all material on through "levels" on line 14.

Renumber the sections consecutively and correct any internal references accordingly.

Representatives Rolfes and Angel spoke in favor of the adoption of the amendment.

Amendment (864) was adopted.

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

Representatives Clibborn and Roach spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5894, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5894, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

ENGROSSED SENATE BILL NO. 5894, as amended by the House, having received the necessary constitutional majority, was declared passed.

SPEAKER'S PRIVILEGE

The Speaker (Representative Morris presiding) introduced House intern Alicia Keefe, University of Washington and asked the Chamber to acknowledge her.

MESSAGES FROM THE SENATE

April 22, 2009

Mr. Speaker:

The President has signed the following:

SECOND SUBSTITUTE HOUSE BILL NO. 1021,
 SUBSTITUTE HOUSE BILL NO. 1036,
 ENGROSSED HOUSE BILL NO. 1087,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1123,
 HOUSE BILL NO. 1127,
 HOUSE BILL NO. 1137,
 HOUSE BILL NO. 1166,
 ENGROSSED HOUSE BILL NO. 1167,
 SUBSTITUTE HOUSE BILL NO. 1201,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1208,
 SUBSTITUTE HOUSE BILL NO. 1215,
 SUBSTITUTE HOUSE BILL NO. 1225,
 HOUSE BILL NO. 1295,
 SUBSTITUTE HOUSE BILL NO. 1300,
 SUBSTITUTE HOUSE BILL NO. 1309,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1326,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1349,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1362,
 SECOND SUBSTITUTE HOUSE BILL NO. 1373,
 ENGROSSED HOUSE BILL NO. 1385,
 HOUSE BILL NO. 1395,
 SUBSTITUTE HOUSE BILL NO. 1402,
 HOUSE BILL NO. 1433,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1445,
 HOUSE BILL NO. 1448,
 SECOND SUBSTITUTE HOUSE BILL NO. 1484,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 21, 2009

Mr. Speaker:

The Senate has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5557,
 ENGROSSED SENATE BILL NO. 5915,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

SECOND READING**HOUSE BILL NO. 2344, by Representative Haigh****Regarding resident undergraduate tuition.**

The bill was read the second time.

There being no objection, Substitute House Bill No. 2344 was substituted for House Bill No. 2344 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2344 was read the second time.

With the consent of the House, amendments (823) and (863) were withdrawn.

Representative Hasegawa moved the adoption of amendment (825):

On page 2, line 3, after "(2)", insert "Tuition fees charged to resident undergraduates for the 2011-12 academic year shall not

exceed the maximum of tuition fees that could have been charged in 2011-12 had the cap imposed under RCW 28B.15.068 remained in effect for the 2009-10 and 2010-11 academic years.

(3)"

On page 2, at the beginning of line 26, strike "(3)" and insert "(((3)))(4)"

On page 2, at the beginning of line 34, strike "(4)" and insert "(((4)))(5)"

On page 3, at the beginning of line 4, strike "(5)" and insert "(6)"

Representatives Hasegawa, Anderson and Williams spoke in favor of the adoption of the amendment.

Representatives Wallace, Liias and Haigh spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (825) to Substitute House Bill No. 2344.

ROLL CALL

The Clerk called the roll on the adoption of amendment (825) to Substitute House Bill No. 2344 and the amendment was not adopted by the following vote: Yeas, 48; Nays, 49; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Campbell, Chandler, Chase, Condotta, Conway, Cox, Crouse, Dammeier, DeBolt, Driscoll, Eddy, Ericksen, Haler, Hasegawa, Herrera, Hinkle, Hope, Johnson, Kelley, Klippert, Kretz, Kristiansen, Liias, McCune, Miloscia, Orcutt, Orwall, Parker, Pearson, Priest, Roach, Rodne, Rolfes, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh and Williams.

Voting nay: Representatives Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Ericks, Finn, Goodman, Grant-Herriot, Green, Haigh, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Probst, Quall, Roberts, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Warnick, White, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Amendment (825) was not adopted.

Representative Anderson moved the adoption of amendment (861):

On page 2, line 3, after "(2)" insert "Beginning in the 2009-10 academic year, the state universities, regional universities, and the Evergreen State College shall assign all new resident undergraduate students to a tuition guarantee group based on the academic year in which they first enroll. After the respective governing boards set tuition fees for full time resident undergraduate students within the limits provided in the omnibus appropriations act, tuition fees for each tuition guarantee group shall be charged at that same rate for four consecutive academic years or until graduation, whichever comes first. The tuition guarantee only applies to students seeking their first bachelor's degree who maintain a minimum grade point average of 3.00. Tuition fees may vary among the universities and the

Evergreen State College. Guaranteed tuition fees may be extended for up to two additional consecutive academic years for programs that encourage students to receive a double major or for which the published credits required for completion exceeds one hundred eighty quarter or one hundred twenty semester credits.

(3)"

On page 2, at the beginning of line 26, strike "(3)" and insert "(((3))) (4)"

On page 2, at the beginning of line 34, strike "(4)" and insert "(((4))) (5)"

On page 3, at the beginning of line 4, strike "(5)" and insert "(6)"

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

Representative Haigh spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (861) to Substitute House Bill No. 2344.

ROLL CALL

The Clerk called the roll on the adoption of amendment (861) to Substitute House Bill No. 2344 and the amendment was not adopted by the following vote: Yeas, 44; Nays, 53; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, Liias, McCoy, McCune, Miloscia, Orcutt, Parker, Pearson, Priest, Probst, Quall, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Sullivan, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Linville, Maxwell, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Amendment (861) was not adopted.

Representative Anderson moved the adoption of amendment (859):

On page 3, after line 8, after "2009." insert the following:

"(6) Beginning in the 2009-10 academic year and ending in the 2012-13 academic year, tuition and fees pursuant to chapter 28B.15 RCW charged to undergraduate resident students enrolled in science, engineering, technology or math programs shall remain at the rates charged in the 2008-09 academic year."

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

Representative Haigh spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (859) to Substitute House Bill No. 2344.

ROLL CALL

The Clerk called the roll on the adoption of amendment (859) to Substitute House Bill No. 2344 and the amendment was not adopted by the following vote: Yeas, 41; Nays, 55; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, Liias, McCune, Miloscia, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Amendment (859) was not adopted.

Representative Anderson moved the adoption of amendment (862):

On page 3, after line 8, insert the following:

NEW SECTION. Sec. 2. A new section is added to chapter 28B.15 RCW to read as follows:

(1) When courses or sections of courses offered by the state universities, regional universities, and The Evergreen State College are full, full-time resident undergraduate students may enroll in an equivalent course offered at another public institution of higher education, either on campus or online, on a space available basis. The course must be required for completion of a student's major course of study in pursuit of the student's first bachelor's degree. Course equivalency shall be determined by the institution at which the student is enrolled full-time.

(2) The institution at which the student is enrolled full-time shall pay all tuition fees associated with the course taken outside of the institution via interagency transfer. The student may not be charged tuition fees.

(3) The public institutions of higher education shall adopt policies and procedures to implement this section. Provisions included in this section shall not impact a student's eligibility for or receipt of student financial aid."

Re-number the remaining sections consecutively and correct any internal reference accordingly.

Correct the title.

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

Representative Haigh spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (862) to Substitute House Bill No. 2344.

ROLL CALL

The Clerk called the roll on the adoption of amendment (862) to Substitute House Bill No. 2344 and the amendment was not adopted by the following vote: Yeas, 41; Nays, 56; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, Liias, McCune, Miloscia, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Amendment (862) was not adopted.

Representative Miloscia moved the adoption of amendment (871):

On page 3, after line 8, insert the following:

"(6) For the 2009-10 academic year, tuition fees charged to full-time resident undergraduate students may increase no greater than fourteen percent over the previous academic year in any institution of higher education.

(7) Beginning with the 2010-11 academic year, any action or combination of actions by the legislature that raises undergraduate resident tuition above the annual state median wage growth rate, as calculated by the office of financial management, may be taken only if approved by a two-thirds vote of each house of the legislature."

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

SPEAKER'S RULING

Mr. Speaker (Representative Morris presiding): "Representative Miloscia, the Speaker would like to ask that you link back to the question of the amendment which is a two thirds vote of both houses. Over half your time has expired. You have not mentioned that key element in the amendment. Please link your remarks back to the key element."

Representative Miloscia (again) spoke in favor of the adoption of the amendment.

Representatives Anderson, Haigh and Wallace spoke against the adoption of the amendment.

Amendment (871) was not adopted.

Representative Liias moved the adoption of amendment (818):

On page 3, after line 33, insert the following:

"Sec. 3. RCW 28B.15.0681 and 2007 c 151 s 2 are each amended to read as follows:

(1) In addition to the requirement in RCW 28B.76.300(4), institutions of higher education shall disclose to their undergraduate resident students on the tuition billing statement, in dollar figures for a full-time equivalent student: ~~((+))~~(a) The full cost of instruction, ~~((2))~~(b) the amount collected from student tuition and fees, and ~~((3))~~(c) the difference between the amounts for the full cost of instruction and the student tuition and fees, noting that the difference between the cost and tuition was paid by state tax funds and other moneys.

(2) Institutions of higher education shall label annual tuition increases for resident undergraduates that are greater than seven percent as a "higher education student tax" on the tuition billing statement."

Representatives Liias, Herrera and Anderson spoke in favor of the adoption of the amendment.

Representative Wallace spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (818) to Substitute House Bill No. 2344.

ROLL CALL

The Clerk called the roll on the adoption of amendment (818) to Substitute House Bill No. 2344 and the amendment was not adopted by the following vote: Yeas, 43; Nays, 54; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Johnson, Kelley, Klippert, Kretz, Kristiansen, Liias, McCune, Miloscia, Orcutt, Orwall, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh, Warnick and Williams.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Condotta, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Representative Anderson moved the adoption of amendment (860):

On page 3, after line 33 of the striking amendment, insert the following:

"Sec. 3. RCW 41.76.035 and 2002 c 356 s 10 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, provisions of collective bargaining agreements relating to compensation shall not exceed the amount or percentage established by the legislature in the appropriations act. If any compensation provision is affected by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the affected provision.

(2) An employer may provide additional compensation to faculty that exceeds that provided by the legislature. Employers shall first use resident undergraduate tuition fees, as defined in chapter 28B.15.020 RCW, to provide compensation to faculty prior to using revenue from any other source. Only after tuition fees are expended may other sources be used."

Correct the title.

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

Representative Haigh spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (860) to Substitute House Bill No. 2344.

ROLL CALL

The Clerk called the roll on the adoption of amendment (860) to Substitute House Bill No. 2344 and the amendment was not adopted by the following vote: Yeas, 40; Nays, 57; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Miloscia, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Representative Wallace moved the adoption of amendment (867):

On page 3, after line 33, insert the following:

"**NEW SECTION. Sec. 3.** (1) Within existing resources, the joint legislative audit and review committee shall complete a systemic performance audit of the state universities, regional universities, and

The Evergreen State College. The purpose of the audit is to create a transparent link between revenues, expenditures, and performance outcomes as outlined in the performance agreements developed under RCW 28B.10.920 and the strategic master plan for higher education as adopted by the legislature. The study shall:

(a) Identify standardized categories of costs that will allow comparison across various administrative, student support, and academic functions;

(b) Based on available management data, estimate current annual costs at each institution for the various cost categories;

(c) Based on available management data, identify fund sources that support the cost categories at each institution; and

(d) Identify barriers or gaps in data linking revenues, expenditures and performance agreement outcome measures.

(2) The auditor shall report findings and recommendations to the appropriate committees of the legislature by December 1, 2010. The report shall include, but is not limited to, the following elements as they relate to the purpose of the audit:

(a) The identification of cost savings and programs or services that could be eliminated;

(b) Analysis of gaps or overlaps in programs or services and recommendations to correct gaps or overlaps;

(c) Feasibility of pooling technology systems or elements of technology systems pursuant to chapter __ RCW (Second Substitute House Bill No. 1946), laws of 2009;

(d) Recommendations for statutory or regulatory changes that may be necessary for the state universities, regional universities, and The Evergreen State College to meet performance agreement objectives mutually agreed upon pursuant to 28B.10.922; and

(e) Recommendations on the development of a uniform higher education performance, budgeting, accounting and reporting system."

Representatives Wallace, Priest, Haigh and Anderson spoke in favor of the adoption of the amendment.

Amendment (867) was adopted. The bill was ordered engrossed.

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

Representatives Haigh, Kessler, Haigh (again), and Wallace spoke in favor of the passage of the bill.

Representatives Anderson, Armstrong, Priest, Hasegawa, Angel, Miloscia, Lias, Herrera, Johnson and Ericksen spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2344.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2344 and the bill passed the House by the following vote: Yeas, 50; Nays, 47; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morris, Nelson, O'Brien, Ormsby, Pedersen,

Pettigrew, Quall, Roberts, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Hasegawa, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, Liias, McCune, Miloscia, Morrell, Orcutt, Orwall, Parker, Pearson, Priest, Probst, Roach, Rodne, Rolfes, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh, Warnick and Williams.

Excused: Representative Flannigan.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2344, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5734, by Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Kilmer, Delvin and Shin)

Making certain current higher education tuition-setting practices permanent. Revised for 1st Substitute: Regarding tuition at institutions.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Ways & Means was before the House for purpose of amendment. (For committee amendment, see Journal, Day 97, April 18, 2009.)

With the consent of the House, amendments (803), (830), (737), (736), (717), (695), (738), (668), (777), (705), (704), (706), (694), (816), (822), (654), (773), (700), (702), (701), (788), (797), (872), (791), (814), (771), (770), (772), (834), (843), (844), (801) and (703) were withdrawn.

Representative Wallace moved the adoption of amendment (875) to the committee amendment:

On page 1, line 8 of the striking amendment, after "~~((2008-09))~~" strike "2010-11" and insert "2012-13"

On page 1, line 12 of the striking amendment, after "~~((2008-09))~~" strike "2010-11" and insert "2012-13"

Representatives Wallace and Anderson spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (875) was adopted.

Representative Anderson moved the adoption of amendment (667) to the committee amendment:

On page 1, line 9 of the striking amendment, after "resident" strike "undergraduates" and insert "~~((undergraduates))~~ undergraduate, graduate, and professional students,"

On page 1, at the beginning of line 16 of the striking amendment, strike "undergraduates," and insert "~~((undergraduates,))~~ undergraduate, graduate, and professional students,"

On page 2, after line 34 of the striking amendment, insert the following:

"**Sec. 2.** RCW 28B.15.068 and 2007 c 151 s 1 are each amended to read as follows:

(1) Beginning with the 2007-08 academic year and ending with the 2016-17 academic year, tuition fees charged to full-time resident undergraduate, graduate, and professional students may increase no greater than seven percent over the previous academic year in any institution of higher education. Annual reductions or increases in full-time tuition fees for resident undergraduate, graduate, and professional students shall be as provided in the omnibus appropriations act, within the seven percent increase limit established in this section. To the extent that state appropriations combined with tuition and fee revenues are insufficient to achieve the total per-student funding goals established in subsection (2) of this section, the legislature may revisit state appropriations, authorized enrollment levels, and changes in tuition fees for any given fiscal year.

(2) The state shall adopt as its goal total per-student funding levels, from state appropriations plus tuition and fees, of at least the sixtieth percentile of total per-student funding at similar public institutions of higher education in the global challenge states. In defining comparable per-student funding levels, the office of financial management shall adjust for regional cost-of-living differences; for differences in program offerings and in the relative mix of lower division, upper division, and graduate students; and for accounting and reporting differences among the comparison institutions. The office of financial management shall develop a funding trajectory for each four-year institution of higher education and for the community and technical college system as a whole that when combined with tuition and fees revenue allows the state to achieve its funding goal for each four-year institution and the community and technical college system as a whole no later than fiscal year 2017. The state shall not reduce enrollment levels below fiscal year 2007 budgeted levels in order to improve or alter the per-student funding amount at any four-year institution of higher education or the community and technical college system as a whole. The state recognizes that each four-year institution of higher education and the community and technical college system as a whole have different funding requirements to achieve desired performance levels, and that increases to the total per-student funding amount may need to exceed the minimum funding goal.

(3) By September 1st of each year beginning [in] 2008, the office of financial management shall report to the governor, the higher education coordinating board, and appropriate committees of the legislature with updated estimates of the total per-student funding level that represents the sixtieth percentile of funding for comparable institutions of higher education in the global challenge states, and the progress toward that goal that was made for each of the public institutions of higher education.

(4) As used in this section, "global challenge states" are the top performing states on the new economy index published by the progressive policy institute as of July 22, 2007. The new economy index ranks states on indicators of their potential to compete in the new economy. At least once every five years, the office of financial management shall determine if changes to the list of global challenge states are appropriate. The office of financial management shall report its findings to the governor and the legislature."

Representatives Anderson, Hasegawa and Liias spoke in favor of the adoption of the amendment to the committee amendment.

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (667) to the committee amendment to Substitute Senate Bill No. 5734.

ROLL CALL

The Clerk called the roll on the adoption of amendment (667) to the committee amendment to Substitute Senate Bill No. 5734 and the amendment was not adopted by the following vote: Yeas, 42; Nays, 55; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Grant-Herriot, Haler, Hasegawa, Herrera, Hinkle, Hope, Johnson, Kelley, Klippert, Kretz, Kristiansen, Liias, McCune, Miloscia, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh, Warnick and Williams.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Cox, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Representative Liias moved the adoption of amendment (789) to the committee amendment:

On page 1, line 11 of the striking amendment, after "(3)(a)" insert "Beginning with the 2009-10 academic year and ending with the 2010-11 academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College may increase full-time tuition fees for resident law, medical, dental, pharmacy, and business graduate and professional students not to exceed fifteen percent over tuition fees charged for the same classifications of students in the previous academic year.

(b) Beginning with the 2009-10 academic year and ending with the 2010-11 academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College may increase tuition fees for all other resident graduate students not to exceed seven percent over tuition fees charged for the same classification of students in the previous academic year.

(c)"

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

On page 1, line 15 of the striking amendment, after "all" strike "students other than resident undergraduates" and insert "(students other than resident undergraduates)other students not identified in subsections (2) and (3)(a) and (3)(b) of this section"

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

Representatives Anderson and Wallace spoke against the adoption of the amendment to the committee amendment.

Amendment (789) was not adopted.

Representative Williams moved the adoption of amendment (781) to the committee amendment:

On page 2, line 24 of the striking amendment, after "through" strike "2008-09" and insert "((2008-09)) 2010-11"

On page 2, line 27 of the striking amendment, after "through academic year" strike "2008-09" and insert "((2008-09)) 2010-11"

On page 2, line 29 of the striking amendment, after "through" strike "2008-09" and insert "((2008-09)) 2010-11"

On page 2, at the beginning of line 33 of the striking amendment, strike "2008-09" and insert "((2008-09)) 2010-11"

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

Representatives Anderson and Wallace spoke against the adoption of the amendment to the committee amendment.

Amendment (781) was not adopted.

Representative Hasegawa moved the adoption of amendment (774) to the committee amendment:

On page 2, after line 34 of the striking amendment, insert the following:

"(10) The governing boards of the state universities, regional universities, The Evergreen State College, and the state board for community and technical colleges shall act to expend all available resources down to minimum prudent reserve levels prior to increasing full time resident undergraduate and graduate tuition fees. Available resources shall include, but are not limited to, general fund state, education legacy trust, revenue generated by intercollegiate athletics, and endowment funds, to the extent permitted by terms and conditions of the endowment funds."

Representatives Hasegawa and Anderson spoke in favor of the adoption of the amendment to the committee amendment.

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (774) to the committee amendment to Substitute Senate Bill No. 5734.

ROLL CALL

The Clerk called the roll on the adoption of amendment (774) to the committee amendment to Substitute Senate Bill No. 5734 and the amendment was not adopted by the following vote: Yeas, 46; Nays, 51; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Conway, Cox, Crouse, Dammeier, DeBolt, Ericksen, Grant-Herriot, Haler, Hasegawa, Herrera, Hinkle, Hope, Johnson, Kelley, Kirby, Kretz, Kristiansen, Liias, McCune, Miloscia, Orcutt, Orwall, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh, Warnick, Williams and Wood.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Condotta, Darneille, Dickerson, Driscoll, Dunshee,

Eddy, Ericks, Finn, Goodman, Green, Haigh, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Klippert, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White and Mr. Speaker.

Excused: Representative Flannigan.

Representative Hasegawa moved the adoption of amendment (802) to the committee amendment:

On page 2, after line 34 of the striking amendment, insert the following:

"NEW SECTION. Sec. 2. A new section is added to 28B.15 RCW to read as follows:

Tuition fees charged to resident undergraduates for the 2011-12 academic year shall not exceed the maximum of tuition fees that could have been charged in 2011-12 had the cap imposed under RCW 28B.15.068 remained in effect for the 2009-10 and 2010-11 academic years."

Representative Hasegawa and Anderson spoke in favor of the adoption of the amendment to the committee amendment.

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (802) to the committee amendment to Substitute Senate Bill No. 5734.

ROLL CALL

The Clerk called the roll on the adoption of amendment (802) to the committee amendment to Substitute Senate Bill No. 5734 and the amendment was not adopted by the following vote: Yeas, 47; Nays, 50; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Campbell, Chandler, Condotta, Conway, Cox, Crouse, Dammeier, DeBolt, Eddy, Ericksen, Grant-Herriot, Haler, Hasegawa, Herrera, Hinkle, Hope, Johnson, Kelley, Klippert, Kretz, Kristiansen, Lias, McCune, Miloscia, Orcutt, Orwall, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh, Warnick and Williams.

Voting nay: Representatives Blake, Carlyle, Chase, Clibborn, Cody, Darneille, Dickerson, Driscoll, Dunshee, Ericks, Finn, Goodman, Green, Haigh, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Representative Armstrong moved the adoption of amendment (811) to the committee amendment:

On page 2, after line 34 of the striking amendment, insert the following:

"NEW SECTION. Sec. 2. A new section is added to 28B.15 RCW to read as follows:

If the legislature enacts and the governing boards of institutions of higher education adopt temporary surcharge increases in addition to or in replacement of annual tuition increases, the surcharge shall be considered as tuition and fees as defined in RCW 28B.95.020 for the purposes of the advanced college tuition program as defined in chapter 28B.95 RCW."

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

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (811) to the committee amendment to Substitute Senate Bill No. 5734.

ROLL CALL

The Clerk called the roll on the adoption of amendment (811) to the committee amendment to Substitute Senate Bill No. 5734 and the amendment was not adopted by the following vote: Yeas, 45; Nays, 52; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Hasegawa, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, Lias, McCune, Miloscia, Orcutt, Orwall, Parker, Pearson, Priest, Roach, Rodne, Rolfes, Ross, Schmick, Shea, Short, Simpson, Smith, Sullivan, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Probst, Quall, Roberts, Santos, Seaquist, Sells, Springer, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Representative White moved the adoption of amendment (827) to the committee amendment:

On page 2, after line 34 of the striking amendment, insert the following:

"(10) Any tuition increases above seven percent shall fund costs of instruction, library and student services, utilities and maintenance, other costs related to instruction as well as institutional financial aid. Through 2010-11, any funding reductions to instruction, library and student services, utilities and maintenance and other costs related to instruction shall be proportionally less than other program areas including administration."

Representative White, Anderson and Wallace spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (827) was adopted.

Representative Anderson moved the adoption of amendment (845) to the committee amendment:

On page 2, after line 34, insert the following:

"**Sec. 2.** RCW 28B.20.382 and 1999 c 346 s 3 are each amended to read as follows:

(1) ((Until authorized by statute of the legislature, the board of regents of the university, with respect to the university tract, shall not sell the land or any part thereof or any improvement thereon, or lease the land or any part thereof or any improvement thereon or renew or extend any lease thereof for a term of more than eighty years. Any sale of the land or any part thereof or any improvement thereon, or any lease or renewal or extension of any lease of the land or any part thereof or any improvement thereon for a term of more than eighty years made or attempted to be made by the board of regents shall be null and void until the same has been approved or ratified and confirmed by legislative act.))The board of regents of the university shall sell any property with respect to the university tract that is not under an existing lease. Whenever existing leases expire the property shall be sold rather than renewing the lease. The sale shall be done through a competitive bidding process.

(2) The board of regents shall have power from time to time to lease the land, or any part thereof or any improvement thereon for a term of not more than eighty years. Any and all records, books, accounts, and agreements of any lessee or sublessee under this section, pertaining to compliance with the terms and conditions of such lease or sublease, shall be open to inspection by the board of regents, the ways and means committee of the senate, the appropriations committee of the house of representatives, and the joint legislative audit and review committee or any successor committees. It is not intended that unrelated records, books, accounts, and agreements of lessees, sublessees, or related companies be open to such inspection. The board of regents shall make a full, detailed report of all leases and transactions pertaining to the land or any part thereof or any improvement thereon to the joint legislative audit and review committee, including one copy to the staff of the committee, during odd-numbered years.

(3) The net proceeds from the sale ((or lease))of land in the university tract shall first pay any previously incurred debt, and then(, or any part thereof or any improvement thereon, shall be deposited into the University of Washington facilities bond retirement account hereby established outside the state treasury as a nonappropriated local fund to be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings at the University of Washington. The board of regents shall transfer from the University of Washington facilities bond retirement account to the University of Washington building account under RCW 43.79.080 any funds in excess of amounts reasonably necessary for payment of debt service in combination with other nonappropriated local funds related to capital projects for which debt service is required under section 4, chapter 380, Laws of 1999.))be deposited into the University of Washington metropolitan tract tuition account hereby established as an appropriated fund to be used exclusively for tuition support purposes, only for residential undergraduate and graduate students of the University of Washington. The proceeds from the sale of any university tract property shall be kept whole at all times. Only revenue from interest earnings shall be appropriated."

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

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (845) to the committee amendment to Substitute Senate Bill No. 5734.

ROLL CALL

The Clerk called the roll on the adoption of amendment (845) to the committee amendment to Substitute Senate Bill No. 5734 and the amendment was not adopted by the following vote: Yeas, 39; Nays, 58; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Johnson, Kretz, Kristiansen, McCune, Miloscia, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Liias, Linville, Maxwell, McCoy, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Representative Anderson moved the adoption of amendment (870) to the committee amendment:

On page 2, after line 34 of the striking amendment, insert the following:

"**NEW SECTION. Sec. 2.** (1) Within existing resources, the joint legislative audit and review committee shall complete a systemic performance audit of the state universities, regional universities, and The Evergreen State College. The purpose of the audit is to create a transparent link between revenues, expenditures, and performance outcomes as outlined in the performance agreements developed under RCW 28B.10.920 and the strategic master plan for higher education as adopted by the legislature. The study shall:

(a) Identify standardized categories of costs that will allow comparison across various administrative, student support, and academic functions;

(b) Based on available management data, estimate current annual costs at each institution for the various cost categories;

(c) Based on available management data, identify fund sources that support the cost categories at each institution; and

(d) Identify barriers or gaps in data linking revenues, expenditures and performance agreement outcome measures.

(2) The auditor shall report findings and recommendations to the appropriate committees of the legislature by December 1, 2010. The report shall include, but is not limited to, the following elements as they relate to the purpose of the audit:

(a) The identification of cost savings and programs or services that could be eliminated;

(b) Analysis of gaps or overlaps in programs or services and recommendations to correct gaps or overlaps;

(c) Feasibility of pooling technology systems or elements of technology systems pursuant to chapter __ RCW (Second Substitute House Bill No. 1946), laws of 2009;

(d) Recommendations for statutory or regulatory changes that may be necessary for the state universities, regional universities, and The Evergreen State College to meet performance agreement objectives mutually agreed upon pursuant to 28B.10.922; and

(e) Recommendations on the development of a uniform higher education performance, budgeting, accounting and reporting system."

Representatives Anderson and Wallace spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (870) was adopted.

The committee amendment as amended was adopted.

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

Representatives Wallace, Haigh, Kagi and White spoke in favor of the passage of the bill.

Representatives Anderson, Williams, Armstrong, Conway, Lias and Hasegawa spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5734, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5734, as amended by the House, and the bill passed the House by the following vote: Yeas, 53; Nays, 44; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Condotta, Conway, Cox, Darneille, Dickerson, Driscoll, Dunshee, Ericks, Finn, Goodman, Haigh, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Moeller, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Crouse, Dammeier, DeBolt, Eddy, Ericksen, Grant-Herriot, Green, Haler, Hasegawa, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, Lias, McCune, Miloscia, Morrell, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh, Warnick and Williams.

Excused: Representative Flannigan.

SUBSTITUTE SENATE BILL NO. 5734, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGES FROM THE SENATE

April 22, 2009

Mr. Speaker:

The Senate receded from its amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1081, and passed the bill without said amendments, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 22, 2009

Mr. Speaker:

The President has signed the following:

HOUSE BILL NO. 1158,
HOUSE BILL NO. 1184,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1516,
SUBSTITUTE HOUSE BILL NO. 1529,
ENGROSSED HOUSE BILL NO. 1530,
SUBSTITUTE HOUSE BILL NO. 1552,
ENGROSSED HOUSE BILL NO. 1566,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1571,
SUBSTITUTE HOUSE BILL NO. 1583,
HOUSE BILL NO. 1589,
HOUSE BILL NO. 1640,
HOUSE BILL NO. 1717,
SUBSTITUTE HOUSE BILL NO. 1740,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1741,
SUBSTITUTE HOUSE BILL NO. 1749,
SUBSTITUTE HOUSE BILL NO. 1769,
SUBSTITUTE HOUSE BILL NO. 1778,
HOUSE BILL NO. 1789,
HOUSE BILL NO. 1790,
SUBSTITUTE HOUSE BILL NO. 1791,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1792,
SUBSTITUTE HOUSE BILL NO. 1793,
SUBSTITUTE HOUSE BILL NO. 1812,
SUBSTITUTE HOUSE BILL NO. 1816,
ENGROSSED HOUSE BILL NO. 1824,
HOUSE BILL NO. 1835,
SUBSTITUTE HOUSE BILL NO. 1856,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1879,
SECOND SUBSTITUTE HOUSE BILL NO. 1899,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 22, 2009

Mr. Speaker:

The Senate concurred in the House amendment to SUBSTITUTE SENATE BILL NO. 5166, and passed the bill as amended by the House, and the same is herewith transmitted.

Thomas Hoemann, Secretary

SPEAKER'S PRIVILEGE

The Speaker (Representative Morris presiding) introduced House intern Katie White, University of Washington and asked the Chamber to acknowledge her.

SECOND READING

SENATE BILL NO. 5525, by Senators Carrell, Hargrove, Stevens, Regala, Brandland, Kauffman and McAuliffe

Concerning rental vouchers to allow release from state institutions.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Ways & Means was before the House for purpose of amendment. (For committee amendment, see Journal, Day 101, April 18, 2009.)

With the consent of the House, amendment (780) was withdrawn.

Representative Herrera moved the adoption of amendment (776) to the committee amendment:

On page 14, beginning on line 11, strike all of section 6
Correct the title.

Representatives Herrera and Bailey spoke in favor of the adoption of the amendment to the committee amendment.

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (776) to the committee amendment to Senate Bill No. 5525.

ROLL CALL

The Clerk called the roll on the adoption of amendment (776) to the committee amendment to Senate Bill No. 5525 and the amendment was not adopted by the following vote: Yeas, 43; Nays, 54; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Armstrong, Bailey, Campbell, Chandler, Clibborn, Condotta, Cox, Crouse, Dammeier, DeBolt, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, Liias, McCune, O'Brien, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Seaquist, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Anderson, Appleton, Blake, Carlyle, Chase, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

The committee amendment was adopted.

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

Representatives Dickerson, Kagi, Roberts, O'Brien, Darneille, Orwall, Appleton and Rolfes spoke in favor of the passage of the bill.

Representatives Dammeier, Haler, Pearson, Orcutt, Shea, Short, Ericksen, Anderson and Klippert spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 5525, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5525, as amended by the House, and the bill passed the House by the following vote: Yeas, 54; Nays, 43; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Seaquist, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representative Flannigan.

SENATE BILL NO. 5525, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

SUPPLEMENTAL INTRODUCTION AND FIRST READING

SB 6065 by Senators Fairley and Shin

AN ACT Relating to the structure and authority of the liquor control board; amending RCW 66.04.010, 66.08.012, 66.08.014, 66.08.022, 66.08.050, 66.08.0501, 66.08.150, and 66.08.166; adding a new section to chapter 66.08 RCW; repealing RCW 66.08.020; providing an effective date; and declaring an emergency.

There being no objection, SENATE BILL NO. 6065 was read the first time, and under suspension of the rules, the bill was placed on the second reading calendar.

REPORTS OF STANDING COMMITTEES

April 22, 2009

SB 5470 Prime Sponsor, Senator Stevens: Providing sales and use tax exemptions for senior residents of qualified low-income senior housing facilities. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta; Conway; Ericks; Santos and Springer.

April 22, 2009

ESSB 6169

Prime Sponsor, Committee on Ways & Means: Enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway; Ericks; Santos and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member and Condotta.

April 22, 2009

ESSB 6170

Prime Sponsor, Committee on Ways & Means: Concerning environmental tax incentives. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended:

Beginning on page 1, line 13, strike all of sections 101 and 102 and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 82.08 RCW to read as follows: (1)(a) Except as provided in section 104 of this act, purchasers who have paid the tax imposed by RCW 82.08.020 on machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, are eligible for an exemption as provided in this section, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts of electricity.

(b) From July 1, 2009, through June 30, 2013, a partial exemption in the form of a remittance is provided for the tax levied by RCW 82.08.020 to the sale of machinery and equipment described in (a) of this subsection that are used directly in generating electricity or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(c) Buyers who receive this partial exemption must comply with the prevailing wage requirements of chapter 39.12 RCW on all installations.

(d) Buyers who receive this partial exemption for installation projects with equipment or machinery costs of thirty-five thousand dollars or more must ensure that no less than fifteen percent of the labor hours installing the equipment or machinery are performed by apprentices.

(2) Sellers must collect the tax on sales subject to this exemption. The buyer must apply for a refund directly from the department in a form and manner required by the department. The refund is for fifty percent of the state sales tax.

(3) For purposes of this section and section 102 of this act, the following definitions apply:

(a) "Biomass energy" includes: (i) Byproducts of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces

that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(b) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c) "Landfill gas" means biomass fuel, of the type qualified for federal tax credits under Title 26 U.S.C. Sec. 29 of the federal internal revenue code, collected from a "landfill" as defined under RCW 70.95.030.

(d)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(e) "Apprentice" means an apprentice enrolled in an apprenticeship training program approved by the Washington state apprenticeship council; and

(f) "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the project. "Labor hours" includes hours performed by workers employed by the contractor and all subcontractors working on the project. "Labor hours" does not include hours worked by foremen, superintendents, owners, and workers who are not subject to prevailing wage requirements.

(3)(a) Machinery and equipment is "used directly" in generating electricity by wind energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas power if it provides any part of the process that captures the energy of the wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(b) Machinery and equipment is "used directly" in generating electricity by fuel cells if it provides any part of the process that captures the energy of the fuel, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(4)(a) A purchaser claiming an exemption in the form of a remittance under subsection (1)(c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled

to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

(5) This section expires July 1, 2013.

NEW SECTION. Sec. 2. A new section is added to chapter 82.12 RCW to read as follows:

(1)(a) Except as provided in section 105 of this act, purchasers who have paid the tax imposed by RCW 82.12.020 on machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, are eligible for an exemption as provided in this section, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts of electricity.

(b) From July 1, 2009, through June 30, 2013, a partial exemption in the form of a remittance is provided for the tax levied by RCW 82.08.020 to the sale of machinery and equipment described in (a) of this subsection that are used directly in generating electricity or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(c) Buyers who receive this partial exemption must comply with the prevailing wage requirements of chapter 39.12 RCW on all installations.

(d) Buyers who receive this partial exemption for installation projects with equipment or machinery costs of thirty-five thousand dollars or more must ensure that no less than fifteen percent of the labor hours installing the equipment or machinery are performed by apprentices.

(2) Sellers must collect the tax on sales subject to this exemption. The buyer must apply for a refund directly from the department in a form and manner required by the department. The refund is for fifty percent of the state sales tax.

(3)(a) A person claiming an exemption in the form of a remittance under subsection (1)(c) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this section more frequently than once per quarter. The consumer must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(b) The department must determine eligibility under this section based on the information provided by the consumer, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying consumers who submitted applications during the previous quarter.

(3) Purchases exempt under section 101 of this act are also exempt from the tax imposed under RCW 82.12.020.

(4) The definitions in section 101 of this act apply to this section.

(5) This section expires July 1, 2013.

NEW SECTION. Sec. 3. A new section is added to chapter 82.32 RCW to read as follows:

(1) The state treasurer must periodically transfer from the general fund to the green industries jobs training account created in RCW 43.330.310, the fifty percent portion of tax refund requests not subject to a refund under RCW 82.08.02567 or 82.12.02567.

(2)(a) For the purposes of this section, "electricity generation sales and use tax exemption" means the sales and use tax exemption under RCW 82.08.02567 and 82.12.02567.

(b) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources, the legislature needs information to evaluate whether the stated goals of legislation were achieved.

(c)(i) A person who receives the benefit of an electricity generation sales and use tax exemption must make an annual report to the department detailing employment, wages, use of apprentices, and employer-provided health and retirement benefits. The report must detail employment by the total number of full-time, part-time, and temporary positions. The report must detail compliance with the prevailing wage requirements of chapter 39.12 RCW on all installations and the use of apprentices for all installations of electricity generation equipment and machinery that costs thirty-five thousand dollars or more.

(ii) The report is due by March 31st following any year in which a tax exemption is claimed or used. The report may not include names of employees. The first report filed under this subsection must include employment, wage, benefit information, and use of apprentices for the twelve-month period immediately before first use of a tax exemption.

(iii) Information in a report under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(iv) If a person fails to submit an annual report under (a) of this subsection by the due date of the report, the department must declare the amount of taxes exempted for that year to be immediately due and payable. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(d) The department must study the electricity generation sales and use tax exemption authorized under RCW 82.08.02567 and 82.12.02567. The department must submit a report to the finance committee of the house of representatives and the ways and means committee of the senate by December 1, 2011, and December 1, 2014. The report must detail employment, wages, and employer-provided health and retirement benefits. The report must measure compliance with the prevailing wage requirements on all installations and the use of apprentices for all installations of electricity generation equipment and machinery that costs thirty-five thousand dollars or more."

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

On page 3, line 12, after "building." insert the following:

"(e) "Purchaser" means a qualifying utility purchasing machinery or equipment, or a person contracting with a qualifying utility for the sale of electric power generated by a facility containing machinery and equipment.

(f) "Qualifying utility" means a utility subject to renewable resource target requirements under chapter 19.285 RCW."

Beginning on page 4, line 13, after "act," strike all material through "quarter." on page 5, line 15 and insert "purchasers who have paid the tax imposed by RCW 82.12.020 on machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, are eligible for an exemption as provided in this section, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts of electricity.

(b) Beginning on July 1, 2009, through June 30, 2011, the provisions of this chapter do not apply in respect to the use of machinery and equipment described in (a) of this subsection that are used directly in generating electricity or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(c) Beginning on July 1, 2011, through June 30, 2013, the amount of the exemption under this subsection (1) is equal to seventy-five percent of the state and local sales tax paid. The purchaser is eligible for an exemption under this subsection (1)(c) in the form of a remittance.

(2)(a) A purchaser claiming an exemption in the form of a remittance under subsection (1)(c) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter."

On page 11, after line 28, insert the following:

"(5) This section expires July 1, 2019."

On page 25, after line 20, insert the following:

"(5) This section expires July 1, 2019."

On page 26, after line 17, insert the following:

"(4) This section expires July 1, 2019."

Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway; Ericks; Santos and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member and Condotta.

April 22, 2009

SB 6173

Prime Sponsor, Senator Prentice: Improving sales tax compliance. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway; Ericks; Santos and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member and Condotta.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were placed on the second reading calendar.

MESSAGE FROM THE SENATE

April 22, 2009

Mr. Speaker:

The Senate insists on its position on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1709 and asks the House to concur therein, and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

MOTION

Representative Bailey moved that the House concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1709.

Representative Bailey spoke in favor of the adoption of the motion to concur in the Senate amendment

Representative Kirby spoke against the adoption of the motion to concur in the Senate amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the motion to concur in the Senate amendment to Engrossed Substitute House Bill No. 1709.

ROLL CALL

The Clerk called the roll on the motion to concur in the Senate amendments to Engrossed Substitute House Bill No. 1709 and the motion was not adopted by the following vote: Yeas: 36; Nays: 61; Absent: 0; Excused: 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Ericksen, Haler, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, Lias, McCune, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Goodman, Grant-Herriot, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall,

Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood, and Mr. Speaker.
Excused: Representative Flannigan.

The House adhered to its position on the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1709 and asked the Senate to concur therein.

MESSAGES FROM THE SENATE

April 22, 2009

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:

SENATE BILL NO. 5107,
SUBSTITUTE SENATE BILL NO. 5732,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5850,
SECOND SUBSTITUTE SENATE BILL NO. 5973,
SENATE BILL NO. 6104,
SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8404,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 22, 2009

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1957, and passed the bill without said amendments, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 22, 2009

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED HOUSE BILL NO. 2040, and passed the bill without said amendment. and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 22, 2009

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1709, and passed the bill without said amendments, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 22, 2009

Mr. Speaker:

The President has signed the following:

SUBSTITUTE HOUSE BILL NO. 1943,
SECOND SUBSTITUTE HOUSE BILL NO. 1946,
SECOND SUBSTITUTE HOUSE BILL NO. 1951,
SUBSTITUTE HOUSE BILL NO. 1957,
ENGROSSED HOUSE BILL NO. 1967,
SUBSTITUTE HOUSE BILL NO. 2003,
HOUSE BILL NO. 2014,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2021,
HOUSE BILL NO. 2025,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2049,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2072,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2078,
SUBSTITUTE HOUSE BILL NO. 2079,
SECOND SUBSTITUTE HOUSE BILL NO. 2106,
SECOND SUBSTITUTE HOUSE BILL NO. 2119,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2128,
HOUSE BILL NO. 2129,
HOUSE BILL NO. 2146,
SUBSTITUTE HOUSE BILL NO. 2157,
SUBSTITUTE HOUSE BILL NO. 2160,
HOUSE BILL NO. 2199,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2222,
SUBSTITUTE HOUSE BILL NO. 2223,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2261,
SUBSTITUTE HOUSE BILL NO. 2287,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289,
HOUSE BILL NO. 2313,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 22, 2009

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:

SUBSTITUTE SENATE BILL NO. 5252,
SUBSTITUTE SENATE BILL NO. 5391,
SUBSTITUTE SENATE BILL NO. 5718,
SUBSTITUTE SENATE BILL NO. 5723,
SUBSTITUTE SENATE BILL NO. 5725,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5746,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

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

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5768, by Senate Committee on Transportation (originally sponsored by Senators Murray, Jarrett, Swecker, Haugen and Kohl-Welles)

Concerning the state route number 99 Alaskan Way viaduct replacement project.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was before the House for purpose of amendment. (For committee amendment, see Journal, Day 101, April 6, 2009.)

With the consent of the House, amendments (783) and (829) to the committee amendment were withdrawn.

Representative Ericksen moved the adoption of amendment (784) to the committee amendment:

On page 1, after line 12 of the striking amendment, strike the remainder of the section and insert the following:

"Therefore, it is the conclusion of the legislature that time is of the essence, and that Washington state cannot wait for a disaster to make it fully appreciate the urgency of the need to replace this vulnerable structure. The state must take the necessary steps to expedite the

environmental review and design processes to replace the Alaskan Way viaduct with a deep bore tunnel under First Avenue from the vicinity of the sports stadiums in Seattle to Aurora Avenue north of the Battery Street tunnel. The tunnel must include four general purpose lanes in a stacked formation.

(2) The state route number 99 Alaskan Way viaduct replacement project finance plan shall be structured as a public private partnership as specified in this subsection and in sections 2, 3, and 4 of this act. State and private funds that constitute the finance plan must be used solely to build a replacement tunnel, as described in subsection (1) of this section, and to remove the existing state route number 99 Alaskan Way viaduct. All costs associated with city utility relocations for state work as described in this section must be borne by the city of Seattle and provided in a manner that meets project construction schedule requirements as determined by the department. State funding is not authorized for any utility relocation costs, or for central seawall or waterfront promenade improvements.

NEW SECTION. Sec. 2. A new section is added to chapter 47.01 RCW to read as follows:

(1) The state's contribution toward the Alaskan Way viaduct replacement project must not exceed two billion four hundred million dollars. The state's contribution shall be financed, in part, by a public private partnership as described in subsection (2) of this section.

(2) The secretary of transportation or the secretary's designee shall, after consultation with King County and the city of Seattle, solicit proposals and enter into an agreement with a private entity to finance at least fifty percent of the state's contribution of two billion four hundred million dollars through tolling, dedication of future tax revenues generated by development in the area of the tunnel and existing viaduct, tax incentives, tax increment financing, and other financing tools for construction of the deep bore tunnel and removal of the existing viaduct.

(a) The agreement must retain state ownership of the state route number 99 Alaskan Way viaduct.

(b) The department shall negotiate the terms and compensation due to the private entity under the agreement. The total amount of compensation to be agreed upon must be comprised of a mix of funds from tolling revenue and financing tools described in subsection (2) of this section. The department shall make every effort to maximize compensation from tax incentives and other financing tools, and minimize direct payments from toll revenue. Payments to private entities must be completed within twenty-five years of the date the project is complete.

(c) Any bonds issued to support the finance plan must be issued by the private entity.

(3) For the purpose of facilitating construction and to assist the private entity in the development, construction, maintenance, and operation of the deep bore tunnel, the agreement must, as required by the private entity, include provisions for the department of transportation to exercise its authority, including the following: Leasing of facilities, rights-of-way, and airspace; exercising the power of eminent domain; granting development rights and opportunities; granting necessary easements and rights of access; issuing permits and other authorizations; granting contractual and real property rights; and negotiating acquisition of rights-of-way in excess of appraised value and any other provision deemed necessary.

(4) Operation and maintenance services to be provided by the private entity include, but are not limited to, roadway maintenance and repair, drainage maintenance and repair, and tunnel maintenance.

NEW SECTION. Sec. 3. A new section is added to chapter 47.01 RCW to read as follows:

After entering into an agreement under section 2 of this act, the department shall retain at least one billion two hundred million dollars of the state's contribution to the Alaskan Way viaduct replacement project in the transportation partnership account for use on state highway safety and congestion relief projects identified by the legislature.

NEW SECTION. Sec. 4. A new section is added to chapter 82.32 RCW to read as follows:

The tax imposed and collected under chapters 82.08 and 82.12 RCW, less any credits allowed under chapter 82.14 RCW, on the initial construction for a deep bored tunnel must be transferred to the department of transportation to defray state costs of work on the Alaskan Way viaduct replacement project as described in section 2 of this act.

Sec. 5. RCW 47.56.820 and 2008 c 122 s 4 are each amended to read as follows:

(1) Unless otherwise delegated or agreed to by the state and private entity pursuant to section 2 of this act, 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."

On page 3, beginning on line 24, strike all of section 3

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

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

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (784) to the committee amendment to Engrossed Substitute Senate Bill No. 5768.

ROLL CALL

The Clerk called the roll on the adoption of amendment (784) to the committee amendment to Engrossed Substitute Senate Bill No. 5768 and the amendment was not adopted by the following vote: Yeas, 40; Nays, 56; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Eddy, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong and Flannigan.

Representative Roach moved the adoption of amendment (785) to the committee amendment:

On page 1, after line 12 of the striking amendment, strike the remainder of the section and insert the following:

"Therefore, it is the conclusion of the legislature that time is of the essence, and that Washington state cannot wait for a disaster to make it fully appreciate the urgency of the need to replace this vulnerable structure. The state shall take the necessary steps to expedite the environmental review and design processes to replace the Alaskan Way viaduct with a deep bore tunnel under First Avenue from the vicinity of the sports stadiums in Seattle to Aurora Avenue north of the Battery Street tunnel. The tunnel must include four general purpose lanes in a stacked formation.

The legislature further finds that some funding currently programmed for the Alaskan Way viaduct should be reallocated to projects that are ready for construction or in need of additional funding. Reallocating this funding will create jobs and provide immediate and long-term economic benefits for Washington state citizens.

(2) Subject to sections 2 through 10 of this act, the state route number 99 Alaskan Way viaduct replacement project finance plan must include state and transportation infrastructure improvement zone funding not to exceed two billion four hundred million dollars. These funds must be used solely to build a replacement tunnel, as described in subsection (1) of this section, and to remove the existing state route number 99 Alaskan Way viaduct. All costs associated with city utility relocations for state work as described in this section must be borne by the city of Seattle and provided in a manner that meets project construction schedule requirements as determined by the department. State funding is not authorized for any utility relocation costs, or for central seawall improvements.

NEW SECTION. Sec. 2. The definitions in this section apply to sections 3 through 10 of this act unless the context clearly requires otherwise.

(1) "Transportation infrastructure improvement zone" or "improvement zone" means the geographic zone from which taxes are to be appropriated to finance public improvements authorized under this chapter.

(2) "Department" means the department of revenue.

(3) "City" means a city with a population of more than five hundred fifty thousand persons.

(4) "Ordinance" means any appropriate method of taking legislative action by a city.

(5) "Public improvements" means infrastructure improvements that relate to the removal of a viaduct damaged by an earthquake and the construction of a deep bore tunnel as its replacement.

(6) "Public improvement costs" means the costs of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) relocating utilities as a result of public improvements; and (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on indebtedness issued to finance public improvements, and any necessary reserves for indebtedness.

(7) "State equivalency payments" means the equivalent amount of state property taxes derived within the improvement zone.

(8) "Tax allocation revenues" means all tax revenues derived from state and local sales taxes, state and local business and occupation taxes, state and local public utility taxes, local regular property taxes, state and local real estate excise taxes, and state and local leasehold excise taxes within the improvement zone from all taxing districts included within the improvement zone. "Tax allocation revenues" also includes state equivalency payments and state and local sales taxes from the initial construction of any new development in the improvement zone.

NEW SECTION. Sec. 3. A city must finance public improvements using transportation infrastructure improvement zone financing subject to the following conditions:

(1) The city adopts an ordinance designating an improvement zone within its boundaries and specifying the public improvements proposed to be financed in whole or in part with the use of tax allocation revenues.

(2) The boundaries of an improvement zone may not change once the improvement zone is established by ordinance.

(3) The ordinance must specify the initial date tax allocation revenues will be distributed to the city to fund public improvement costs.

(4) Tax allocation revenues distributed to the city to fund public improvement costs must cease twenty-five years from the date described in subsection (3) of this section.

(5) The boundaries of the improvement zone may only include territory around the location where a viaduct damaged by earthquake is razed. As part of this determination, the city may include an estimate of the increase in tax allocation revenues upon completion of the construction of the public improvements and any associated private development.

NEW SECTION. Sec. 4. (1) Before adopting an ordinance creating the improvement zone, a city must hold a public hearing on the proposed financing of the public improvement in whole or in part with improvement zone financing.

(a) Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed improvement zone at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed improvement zone.

(b) Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by tax allocation revenues, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed improvement zone, and estimate the period during which the improvement zone financing is contemplated to be used.

The public hearing may be held by either the governing body of the city, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) In order to create an improvement zone, a city must adopt an ordinance establishing the improvement zone that:

- (a) Describes the public improvements;
- (b) Describes the boundaries of the improvement zone;
- (c) Estimates the cost of the public improvements and the portion of these costs to be financed by transportation tax allocation revenues;

(d) Estimates the time during which tax allocation revenues are to be used to finance public improvement costs associated with the public improvements financed in whole or in part by improvement zone financing;

(e) Provides the date when the use of improvement zone tax allocation revenues will commence; and

(f) Provides a schedule for when development rights above the location where a viaduct damaged by earthquake is razed will be available for purchase.

NEW SECTION. Sec. 5. (1) A city that adopts an ordinance creating an improvement zone under this chapter must, within ninety days of adopting the ordinance:

(a) Publish notice in a legal newspaper of general circulation within the improvement zone that describes the public improvement, describes the boundaries of the improvement zone, and identifies the location and times where the ordinance and other public information concerning the public improvement may be inspected; and

(b) Deliver a certified copy of the ordinance to the county treasurer, the county assessor, the department of revenue, and the governing body of each taxing authority within which the improvement zone is located.

(2) Any challenge to the formation must be brought within sixty days of the later of the date of its formation or August 1, 2009.

NEW SECTION. Sec. 6. A city that adopts an ordinance creating an improvement zone under this chapter must sell development rights in the area where a viaduct damaged by earthquake is razed. All proceeds from the sale of development rights shall be deposited in the special fund or funds described under section 8 of this act and must be used to defease bonds for public improvements.

NEW SECTION. Sec. 7. The city must use all tax allocation revenues for the razing of a viaduct damaged by an earthquake and the construction of a deep bore tunnel as its replacement and related public improvements. Tax allocation revenues shall be deposited in a special fund or funds described under section 8 of this act or other segregated account of the city to be used exclusively for the funding of public improvements. By December 31st of each year, the state treasurer must transfer from the state general fund to the city the amount of the state equivalency payment for that year. By December 31st of each year, the county treasurer must transfer to the appropriate fund or funds of the city the amount of any local property taxes levied for collection in that year within the improvement zone. On a quarterly basis, the state treasurer must transfer tax allocation revenues derived from state and local sales taxes, state business and occupation taxes, state and local real estate excise taxes, and state and local leasehold excise taxes to the city.

NEW SECTION. Sec. 8. (1) A city must issue revenue bonds to fund public improvements, or portions of public improvements, that are located within an improvement zone and that it is authorized to provide or operate. Whenever revenue bonds are to be issued, the legislative authority of the city must create or have created a special fund or funds from which, along with any reserves created pursuant

to RCW 39.44.140, the principal and interest on these revenue bonds must exclusively be payable. The legislative authority of the city may obligate the city to set aside and pay into the special fund or funds a fixed proportion or a fixed amount of the tax allocation revenues obtained within the improvement zone. This amount or proportion is a lien and charge against these revenues, subject only to operating and maintenance expenses. The city must have due regard for the cost of operation and maintenance of the public improvements that are funded by the revenue bonds, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues that in its judgment will be available over and above the cost of maintenance and operation and the amount or proportion, if any, of the revenue previously pledged. The city may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(2) Revenue bonds issued pursuant to this section are not an indebtedness of the city issuing the bonds, and the interest and principal on the bonds must only be payable from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The owner or bearer of a revenue bond or any interest coupon issued pursuant to this section shall not have any claim against the city arising from the bond or coupon except for payment from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The substance of the limitations included in this subsection must be plainly printed, written, or engraved on each bond issued pursuant to this section.

(3) Revenue bonds with a maturity in excess of twenty-five years may not be issued. The legislative authority of the city must by resolution determine for each revenue bond issue the amount, date, form, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, and covenants including the refunding of existing revenue bonds. Facsimile signatures may be used on the bonds and any coupons. Refunding revenue bonds may be issued in the same manner as revenue bonds are issued.

NEW SECTION. Sec. 9. The tax allocation revenues and state equivalency payments constitute one billion dollars of the state contribution of two billion four hundred million dollars toward the replacement of a viaduct damaged by earthquake and to construct a deep bored tunnel. The department of transportation shall retain one billion dollars of the state's contribution to the Alaskan Way viaduct replacement project in the transportation partnership account for use on state highway safety and congestion relief projects identified by the legislature.

NEW SECTION. Sec. 10. A new section is added to chapter 82.32 RCW to read as follows:

The tax imposed and collected under chapters 82.08 and 82.12 RCW on the construction of a deep bore tunnel must be transferred to a city that creates a transportation infrastructure improvement zone, as defined in section 2 of this act. The city must deposit any revenues received under this section into the special fund or funds described in section 8 of this act and must be used to reduce project costs.

NEW SECTION. Sec. 11. Sections 2 through 10 of this act constitute a new chapter in Title 39 RCW."

On page 3, beginning on line 6, strike all of sections 2 and 3

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

Representatives Roach and Ericksen spoke in favor of the adoption of the amendment to the committee amendment.

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (785) to the committee amendment to Engrossed Substitute Senate Bill No. 5768.

ROLL CALL

The Clerk called the roll on the adoption of amendment (785) to the committee amendment to Engrossed Substitute Senate Bill No. 5768 and the amendment was not adopted by the following vote: Yeas, 39; Nays, 57; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong and Flannigan.

Representative Roach moved the adoption of amendment (815) to the committee amendment:

On page 1, beginning on line 21 of the striking amendment, strike all material through "improvements." on page 2, line 12, and insert "While the department and stakeholder process considered many options, including the deep bore tunnel alternative, as jointly proposed by the state, city, and county departments of transportation and recommended by the governor, King County, and city of Seattle in a letter of agreement dated January 13, 2009, there still remain many concerns regarding the deep bore tunnel's cost, capacity to adequately and efficiently move people and goods, and access to the state route 99 corridor."

Notwithstanding these concerns, the legislature finds that time is of the essence, and that the state cannot wait for a disaster to make it fully appreciate the urgency of the need to replace this vulnerable structure.

(2) Subject to subsections (3) and (4) of this section, the state shall take the necessary steps to expedite the environmental review and design processes to replace the Alaskan Way viaduct with a deep bore tunnel under First Avenue from the vicinity of the sports stadiums in Seattle to Aurora Avenue north of the Battery Street tunnel. The tunnel must include four general purpose lanes in a stacked formation.

(3)(a) The state route number 99 Alaskan Way viaduct replacement project finance plan must include state funding not to exceed two billion four hundred million dollars. For purposes of this section, the state route number 99 Alaskan Way viaduct replacement project includes all building blocks and elements of the Alaskan Way viaduct replacement project along the state route 99 corridor, as proposed by the state and affected city and county departments of transportation and as described in the January 13, 2009, letter, including but not limited to construction of the deep bore tunnel, removal of the existing viaduct structure, right of way purchase, design, engineering, environmental review, surface street and transit enhancements, and any related work north and south of the existing viaduct structure.

(b) State funding for the Alaskan Way viaduct replacement project is subject to the following requirements and limitations:

(i) State funding for any aspect of the replacement project shall not be increased for any reason, including but not limited to revised costs or revenue estimates, cost overruns, or unforeseen circumstances;

(ii) All costs associated with city utility relocations for state work as described in this section must be borne by the city of Seattle and provided in a manner that meets project construction schedule requirements as determined by the department; and

(iii) State funding is not authorized for any utility relocation costs, or for central seawall or waterfront promenade improvements.

(4)(a) The department is authorized to work on any element of the Alaskan way viaduct replacement project that is consistent with its responsibilities as defined in the January 13, 2009, letter of agreement, described in subsection (1) of this section, and is also design neutral and compatible with any replacement design alternative for the existing viaduct structure. The department is also authorized to proceed with preliminary design, engineering, and other work necessary to prepare for construction of the tunnel, including but not limited to conducting test boring, environmental impact analysis, and soil analysis, and executing a contract for construction of the deep bore tunnel machine.

(b) Except as provided in (a) of this subsection, the department is not authorized to work on any element of the Alaskan way viaduct replacement project that is inconsistent with its responsibilities as outlined in the January 13, 2009, letter of agreement, described in subsection (1) of this section, and is not design neutral or compatible with any replacement design alternative for the existing viaduct structure, and state funding shall not be obligated and shall remain in an unallotted status until the following conditions are met:

(i) The department and the city of Seattle execute a binding agreement in which the city agrees to fund any cost overruns related to work undertaken by the department on the Alaskan Way viaduct replacement project that exceed two billion four hundred million dollars;

(ii) The city of Seattle develops a finance plan that fully secures local funding sources sufficient to meet its pledged contribution to the project of over nine hundred thirty million dollars and any additional risk or contingency funding necessary to provide for potential cost overruns described in (a) of this subsection. For purposes of this subsection, "fully secures" means that the legislative authority of the city has taken every step necessary to approve, implement, and obligate any funding source necessary to meet the city's obligations as described in this subsection, including obtaining, if necessary, voter approval of any funding source included in the finance plan; and

(iii) The agreement and finance plan as described in (b)(i) and (ii) of this subsection have been approved by the legislature during the 2010 regular legislative session."

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

On page 3, beginning on line 1, strike all of subsection (6)

On page 3, beginning on line 6, strike all of section 2 and insert the following:

"NEW SECTION. Sec. 2. (1) The state department of transportation and affected city and county departments of transportation must jointly prepare an access study for a state route number 99 deep bore tunnel for the purpose of evaluating how access for neighborhoods along the state route 99 corridor will be impacted by the deep bore tunnel alternative. In evaluating the impact on access, the departments of transportation must conduct public outreach with affected neighborhoods and property owners and develop recommendations for preserving neighborhood access to state route 99.

(2) By December 1 2009, the departments must submit a joint report on the results of the access study described in subsection (1) of this section, including recommendations for preserving neighborhood access, to the governor and the legislature."

On page 3, beginning on line 24, strike all of section 3

Renumber the sections consecutively and correct any internal references accordingly.

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

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (815) to the committee amendment to Engrossed Substitute Senate Bill No. 5768.

ROLL CALL

The Clerk called the roll on the adoption of amendment (815) to the committee amendment to Engrossed Substitute Senate Bill No. 5768 and the amendment was not adopted by the following vote: Yeas, 43; Nays, 53; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Finn, Grant-Herriot, Haigh, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Simpson, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Goodman, Green, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong and Flannigan.

Representative Klippert moved the adoption of amendment (786) to the committee amendment:

On page 1, line 24 of the striking amendment, after "structure." strike "The" and insert "Subject to section 2 of this act, the"

On page 2, line 1, after "(2)", strike "The" and insert "Subject to section 2 of this act, the"

On page 2, beginning on line 13, strike all material through "county." on page 3, line 5

On page 3, beginning on line 6, strike all of section 2 and insert the following:

"NEW SECTION. Sec. 2. A new section is added to chapter 47.01 RCW to read as follows:

(1) Prior to beginning any work related to construction of the deep bore tunnel or removal of the existing viaduct, the department of transportation must prepare a traffic and revenue study for a state route number 99 deep bore tunnel for the purpose of determining the facility's potential to generate toll revenue. The department shall regularly report to the transportation commission regarding the progress of the study for the purpose of guiding the commission's toll setting on the facility. The study must include the following information:

(a) An analysis of the potential diversion from state route number 99 to other parts of the transportation system resulting from tolls on the facility;

(b) An analysis of potential mitigation measures to offset or reduce diversion from state route number 99;

(c) A summary of the amount of revenue generated from tolling the deep bore tunnel; and

(d) An analysis of the impact of tolls on the performance of the facility.

(2) The department must provide the results of the study described in subsection (1) of this section to the governor and the legislature by January 2010. If the results of the study conclude that toll revenues are unlikely to generate at least four hundred million dollars, as provided in section 1 of this act, the state shall retrofit the existing viaduct structure as the preferred alternative design, at a cost not to exceed one billion three hundred million dollars in state funding, and may not construct a deep bored tunnel or any other facility related to the Alaskan Way viaduct replacement project.

NEW SECTION. Sec. 3. A new section is added to chapter 47.01 RCW to read as follows:

If the state retrofits the existing viaduct structure pursuant to section 2 of this act, the department shall retain one billion one hundred million dollars of the state's contribution to the Alaskan Way viaduct replacement project in the transportation partnership account for use on state highway safety and congestion relief projects identified by the legislature."

On page 3, beginning on line 24, strike all of section 3

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

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (786) to the committee amendment to Engrossed Substitute Senate Bill No. 5768.

ROLL CALL

The Clerk called the roll on the adoption of amendment (786) to the committee amendment to Engrossed Substitute Senate Bill No. 5768 and the amendment was not adopted by the following vote: Yeas, 36; Nays, 60; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Grant-Herriot, Haler, Hinkle, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Anderson, Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Green, Haigh, Hasegawa, Herrera, Hope, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong and Flannigan.

Representative Roach moved the adoption of amendment (794) to the committee amendment:

On page 2, beginning on line 1 of the striking amendment, strike all material through "county." on page 3, line 5, and insert the following:

"(2) The state route number 99 Alaskan Way viaduct replacement project finance plan must include state funding not to exceed two billion four hundred million dollars. State funding is contingent on a four hundred million dollar contribution by the city of Seattle, which shall be applied to construction of the deep bore tunnel. The city's contribution of four hundred million dollars shall be in addition to the city's pledged contribution of over nine hundred thirty million dollars to the replacement project, and shall not transfer any ownership rights or interests in the deep bore tunnel from the state to the city. The combined state and city funds, as described in this subsection, must be used solely to build a replacement tunnel, as described in subsection (1) of this section, and to remove the existing state route number 99 Alaskan Way viaduct. All costs associated with city utility relocations for state work as described in this section must be borne by the city of Seattle and provided in a manner that meets project construction schedule requirements as determined by the department. State funding is not authorized for any utility relocation costs, or for central seawall or waterfront promenade improvements."

On page 3, beginning on line 24, strike all of section 3

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

Representatives Roach and DeBolt spoke in favor of the adoption of the amendment to the committee amendment.

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

Amendment (794) to the committee amendment was not adopted.

Representative Clibborn moved the adoption of amendment (826) to the committee amendment:

On page 2, line 3 of the striking amendment, after "include" strike "at least" and insert "no more than"

On page 3, line 1, after "(6)" strike "The state, city," and insert "(a) The city"

On page 3, after line 5, insert the following:

"(b) The state's contribution shall not exceed two billion four hundred million dollars. If costs exceed two billion four hundred million dollars, no more than four hundred million of the additional costs shall be financed with toll revenue. Any costs in excess of two billion eight hundred million dollars shall be borne by property owners in the Seattle area who benefit from replacement of the existing viaduct with the deep bore tunnel."

Representatives Clibborn, Roach and Seaquist spoke in favor of the adoption of the amendment to the committee amendment.

Representative Priest and Carlyle spoke against the adoption of the amendment to the committee amendment.

Division was demanded and the demand was sustained.

The Speaker (Representative Morris presiding) divided the House. The result was 49 – YEAS; 47 – NAYS.

Amendment (826) to the committee amendment was adopted.

Representative Rodne moved the adoption of amendment (828) to the committee amendment:

On page 3, after line 5 of the striking amendment, insert the following:

"NEW SECTION. Sec. 2. A new section is added to chapter 47.01 RCW to read as follows:

(1) The legislature finds that that it is critical to protect the state's contribution of no more than two billion four hundred million dollars to the Alaskan Way viaduct replacement project by ensuring that it is delivered in a manner that is both on time and within budget.

(2) Appropriations for the Alaskan Way viaduct replacement project provided in the 2009-2011 omnibus transportation appropriations act, as well as all future appropriations for this project, shall be appropriated subject to the following conditions:

(a)(i) The legislature understands that the port of Seattle intends to contribute at least \$300,000,000 to the Alaskan Way viaduct replacement project. By no later than September 30, 2010, the department of transportation shall enter into a binding agreement with the port, which must commit the port to contribute at least \$300,000,000 to the project.

(ii) If the agreement in (a)(i) of this subsection is not executed by September 30, 2010, then:

(A) No appropriated funds identified in this section may be expended after that date for the purposes of the viaduct replacement

project if the funds have not been obligated to the project, and any remaining funds shall be placed into a reserve status; and

(B) The department shall obligate funds remaining under (a)(ii)(A) of this subsection, and apply any future funding programmed for the project, to the transportation partnership projects identified by the legislature as listed in the LEAP Transportation Document 2009-1, Highway Improvement Program (I), as provided in the 2009-2011 omnibus transportation appropriations act;

(b)(i) The department of transportation has determined that construction of the deep bore tunnel will begin by December 2011.

(ii) If the construction of the deep bore tunnel in subsection (b)(i) of this subsection does not begin by December 2011, then:

(A) No funds may be expended after that date for the purposes of the viaduct replacement project, and any remaining unobligated funds shall be placed into a reserve status; and

(B) The department shall obligate funds remaining under (b)(ii)(A) of this subsection, and apply any future funding programmed for the project, to the transportation partnership projects identified by the legislature as listed in the LEAP Transportation Document 2009-1, Highway Improvement Program (I), as provided in the 2009-2011 omnibus transportation appropriations act;

(c)(i) The department of transportation has determined that the south end viaduct replacement project, as described in the list of moving forward projects that are neutral to all viaduct replacement design options, will be completed by 2013 and is estimated to cost no more than \$556,000,000.

(ii) If the south end viaduct replacement project under (c)(i) of this subsection is not completed by 2013 or within its estimated cost, then:

(A) No funds may be expended after that date for the purposes of the viaduct replacement project, and any remaining unobligated funds shall be placed into a reserve status; and

(B) The department shall obligate funds remaining under (c)(ii)(A) of this subsection, and apply any future funding programmed for the project, to the transportation partnership projects identified by the legislature as listed in the LEAP Transportation Document 2009-1, Highway Improvement Program (I), as provided in the 2009-2011 omnibus transportation appropriations; and

(d)(i) The department of transportation has determined that the transit enhancements and other improvements in the south end, as described in the list of moving forward projects that are neutral to all viaduct replacement design options, will be completed by 2013 and are estimated to cost no more than \$110,000,000.

(ii) If the transit enhancements and other improvements under (d)(i) of this subsection are not completed by 2013 or within the estimated amount, then:

(A) No funds may be expended after that date for the purposes of the viaduct replacement project, and any remaining unobligated funds shall be placed into a reserve status; and

(B) The department shall obligate funds remaining under (d)(ii)(A) of this subsection, and apply any future funding programmed for the project, to the transportation partnership projects identified by the legislature as listed in the LEAP Transportation Document 2009-1, Highway Improvement Program (I), as provided in the 2009-2011 omnibus transportation appropriations act."

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

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

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

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (828) to the committee amendment to Engrossed Substitute Senate Bill No. 5768.

ROLL CALL

The Clerk called the roll on the adoption of amendment (828) to the committee amendment to Engrossed Substitute Senate Bill No. 5768 and the amendment was not adopted by the following vote: Yeas, 40; Nays, 56; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Eddy, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong and Flannigan.

Amendment (828) to the committee amendment was not adopted.

Representative Cox moved the adoption of amendment (842) to the committee amendment:

On page 3, after line 5 of the striking amendment, insert the following:

"(7) Compression brakes may be used by authorized motor vehicles in the deep bore tunnel in a manner consistent with the requirements of RCW 46.37.395."

Representatives Cox and Clibborn spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (842) to the committee amendment was adopted.

Representative Smith moved the adoption of amendment (718) to the committee amendment:

On page 3, beginning on line 24, strike all of section 3
Renumber the remaining sections consecutively and correct any internal references accordingly.
Correct the title.

Representatives Nelson and Dickerson spoke in favor of the adoption of the amendment to the committee amendment.

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

Amendment (718) to the committee amendment was adopted.

Representative Bailey moved the adoption of amendment (790) to the committee amendment:

On page 5, beginning on line 17 of the amendment, strike all of section 4

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

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

Amendment (842) to the committee amendment was not adopted.

The committee amendment as amended was adopted.

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

Representatives Clibborn, Carlyle and Takko spoke in favor of the passage of the bill.

Representatives Roach, Klippert, Rodne and Ericksen spoke against the passage of the bill.

There being no objection, House Rule 13 (C) was suspended allowing the House to work past 10:00 p.m.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5768, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5768, as amended by the House, and the bill passed the House by the following vote: Yeas, 53; Nays, 43; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Blake, Carlyle, Chandler, Chase, Clibborn, Cody, Darneille, Dunshee, Eddy, Finn, Goodman, Haigh, Hinkle, Hope, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kenney, Kessler, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Ross, Seaquist, Sells, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Warnick, White, Williams and Wood.

Voting nay: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Condotta, Conway, Cox, Crouse, Dammeier, DeBolt, Dickerson, Driscoll, Ericks, Ericksen, Grant-Herriot, Green, Haler, Hasegawa, Herrera, Hurst, Kelley, Kirby, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Santos, Schmick, Shea, Short, Simpson, Smith, Wallace, Walsh and Mr. Speaker.

Excused: Representatives Armstrong and Flannigan.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5768, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

There being no objection, the House adjourned until 10:00 a.m., April 23, 2009, the 102nd Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

