

**SIXTY-FOURTH DAY****MORNING SESSION**

Senate Chamber, Olympia, Monday, March 14, 2005

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Benton, Deccio, Hargrove, Oke, Parlette, Pflug, Poulsen, Rasmussen, Sheldon and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Carter Manning and Elise Markley, presented the Colors. Pastor Tandi Rogers, Program Consultant For the Unitarian Universalist Association, Pacific Northwest District of the Church offered the prayer.

**MOTION**

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

**MOTION**

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

**PERSONAL PRIVILEGE**

Senator Eide: "Well, ladies and gentlemen of the Senate. I want to take this opportunity to thank the Lt. Governor for a fun evening, Saturday night. We went to the Ventures, we had a ball. We had the opportunity to see, Gretchen from Fleetwood, Roger Fisher, he's a guitarist from Heart, we got to see J.C. Morris from Puyallup, Tracey Moore, he sang 'Blue Swede Shoes and Senator Kohl-Welles, her husband, Val Stevens and her husband, Senator Poulsen, Senator Esser and myself and my husband. We couldn't stand still all night, we danced our night away and I must say, I did dance with your lovely wife., Linda. We had a great time. But most of all, I was quite impressed with our Lt. Governor. He can play the saxophone, he can play the guitar and he can sing. You are the master when it comes to the saxophone. Thank you so much for a fun evening."

**REPLY BY THE PRESIDENT**

President Owen: "Thank you. But we're still not goin g to have rock music in the chamber. Oh, and the Walers with Louie Louie."

**PERSONAL PRIVILEGE**

Senator Jacobsen: "I was one of the members involved in Louie Louie declared the state song and it might have succeeded if the women that hadn't wrote Washington my sweet home or something like that, had lived in Senator Snyder's district."

**SECOND READING****CONFIRMATION OF GUBERNATORIAL APPOINTMENTS****MOTION**

On motion of Senator Rockefeller, Gubernatorial Appointment No. 9179, Doug Sayan, as a member of the Board of Trustees, Olympic Community College District No. 3, be confirmed.

Senators Rockefeller and Jacobsen spoke in favor of passage of the motion.

**MOTION**

On motion of Senator Hewitt, Senators Benton and Oke were excused.

**APPOINTMENT OF DOUG SAYAN**

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 38; Nays, 0; Absent, 9; Excused, 2.

Voting yea: Senators Benson, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Prentice, Pridemore, Regala, Roach, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 38

Absent: Senators Brown, Deccio, Hargrove, Parlette, Pflug, Poulsen, Rasmussen, Sheldon and Zarelli - 9

Excused: Senators Benton and Oke - 2

**MOTIONS**

On motion of Senator Thibaudeau, Senators Prentice and Doumit were excused.

On motion of Senator Hewitt, Senators Brown, Deccio, Hargrove, Parlette, Pflug, Rasmussen Poulsen, Sheldon and Zarelli were excused.

**SECOND READING****CONFIRMATION OF GUBERNATORIAL APPOINTMENTS****MOTION**

On motion of Senator Fraser, Gubernatorial Appointment No. 9138, Sid Morrison, as a member of the Board of Trustees, Central Washington University, be confirmed.

Senator Fraser spoke in favor of the motion.

**APPOINTMENT OF SID MORRISON**

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 40; Nays, 1; Absent, 0; Excused, 8.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Pridemore, Regala, Roach, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 40

Voting nay: Senator Benton - 1

Excused: Senators Deccio, Doumit, Hargrove, Oke, Prentice, Rasmussen, Sheldon and Zarelli - 8

**SECOND READING****CONFIRMATION OF GUBERNATORIAL APPOINTMENTS****MOTION**

On motion of Senator Mulliken, Gubernatorial Appointment No. 9218, Judy Yu, as a member of the Board of Trustees, Central Washington University, be confirmed.

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

**APPOINTMENT OF JUDY YU**

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler,

Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 45

Excused: Senators Doumit, Oke, Prentice and Zarelli - 4

#### MOTION

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

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

2SHB 1220 by House Committee on Appropriations (originally sponsored by Representatives Morrell, Schual-Berke, Cody, Simpson, Campbell, Williams, Chase, Kenney, O'Brien, Clibborn, Conway, Green, Kagi and Upthegrove)

AN ACT Relating to establishing a task force on long-term care financing and chronic care management; and creating new sections.

Referred to Committee on Health & Long-Term Care.

ESHB 1252 by House Committee on Education (originally sponsored by Representatives Quall, Curtis, Anderson, Talcott, Eickmeyer, Kirby, Haigh, DeBolt, Dunshee, McDonald, Morrell, Buri, Miloscia, Rodne, Lovick, O'Brien, Shabro, P. Sullivan, Wood, Sells, Chase, Ormsby and Kilmer)

AN ACT Relating to family and consumer science education; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

E2SHB 1290 by House Committee on Appropriations (originally sponsored by Representatives Cody, Bailey, Schual-Berke, Campbell, Morrell, Hinkle, Green, Appleton, Moeller, Haigh, Linville, Kenney, Wood and Santos)

AN ACT Relating to community mental health services; amending RCW 71.24.025, 71.24.030, 71.24.045, 71.24.100, 71.24.240, 71.24.300, 71.24.420, and 71.05.020; reenacting and amending RCW 71.24.015 and 71.24.035; adding new sections to chapter 71.24 RCW; adding a new section to chapter 74.09 RCW; creating new sections; providing expiration dates; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SHB 1344 by House Committee on Appropriations (originally sponsored by Representatives P. Sullivan, Simpson and Dunn)

AN ACT Relating to a web site for information on fugitives; and adding a new section to chapter 72.09 RCW.

Referred to Committee on Human Services & Corrections.

2SHB 1346 by House Committee on Appropriations (originally sponsored by Representatives Buck, B. Sullivan, Kretz, DeBolt, Blake, Eickmeyer and Takko)

AN ACT Relating to regulatory reform of the hydraulic project approval program; amending RCW 77.55.330, 77.55.150, 77.55.270, 77.55.280, 77.55.300, 77.55.130, 77.55.010, 77.55.200, 77.55.220, 77.55.340, 77.55.210, 77.55.290, 77.55.160, 77.55.350, 77.55.230, 77.55.090, 77.55.120, 77.55.140, 77.55.170, 77.55.180, 77.55.040, 77.55.050, 77.55.060, 77.55.320, 76.09.050, 77.12.865, and

77.65.250; adding new sections to chapter 77.55 RCW; adding a new chapter to Title 77 RCW; creating a new section; recodifying RCW 77.55.330, 77.55.030, 77.55.360, 77.55.150, 77.55.270, 77.55.020, 77.55.280, 77.55.300, 77.55.130, 77.55.200, 77.55.220, 77.55.340, 77.55.210, 77.55.290, 77.55.160, 77.55.010, 77.55.350, 77.55.230, 77.55.090, 77.55.120, 77.55.260, 77.55.140, 77.55.170, 77.55.180, 77.55.040, 77.55.050, 77.55.060, 77.55.070, 77.55.080, 77.55.310, 77.55.320, and 77.55.240; and repealing RCW 77.55.100, 77.55.110, 77.55.190, 77.55.250, and 77.55.370.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 1353 by House Committee on Appropriations (originally sponsored by Representatives Kenney, Morrell, Cody, Clibborn, Campbell, Williams, Conway and Santos)

AN ACT Relating to funding a central resource center for the nursing work force; amending RCW 43.70.110 and 43.70.250; adding a new section to chapter 18.79 RCW; creating a new section; repealing RCW 18.79.--; repealing 2005 c ... s 1 (uncodified); and providing an effective date.

Referred to Committee on Health & Long-Term Care.

SHB 1365 by House Committee on Health Care (originally sponsored by Representatives Appleton, Bailey and Cody)

AN ACT Relating to home and community services' case management responsibilities; and amending RCW 74.09.520, 74.39A.009, 74.39A.030, 74.39A.090, 74.39A.095, and 74.39A.240.

Referred to Committee on Health & Long-Term Care.

HB 1386 by Representatives Takko, Haler, Haigh, Ericks, Hankins, McCoy and Chase

AN ACT Relating to the surcharge for preservation of historical documents; and amending RCW 36.22.170.

Referred to Committee on Government Operations & Elections.

SHB 1387 by House Committee on Transportation (originally sponsored by Representatives Nixon, Flannigan, Dickerson, Shabro, Wood, Springer, Appleton, Murray, Hudgins, Upthegrove, Schual-Berke, Moeller, Campbell, Hunter, Kagi, Clibborn and Darneille)

AN ACT Relating to Washington state patrol vehicle accident investigations and corrective action procedures; adding a new section to chapter 43.43 RCW; creating new sections; and declaring an emergency.

Referred to Committee on Transportation.

SHB 1394 by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, Condotta and Kenney)

AN ACT Relating to the department of licensing; amending RCW 18.96.050, 19.105.380, and 64.36.225; adding a new section to chapter 43.24 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 1460 by House Committee on Transportation (originally sponsored by Representatives Green, Shabro, Flannigan, Talcott, Morrell and Lantz)

AN ACT Relating to county contracts for construction, maintenance, or repair of a marine vessel; amending RCW 39.08.100; and declaring an emergency.

Referred to Committee on Transportation.

HB 1466 by Representatives Flannigan, Woods, Darneille, Condotta, Kirby, Orcutt, Simpson, Haigh, Nixon, Chase, Strow, Hunt, Blake, Campbell and Kagi

AN ACT Relating to motorcycles at traffic signals; adding a new section to chapter 46.61 RCW; and providing an effective date.

Referred to Committee on Transportation.

HB 1487 by Representatives Ormsby, Dunshee, Serben and Crouse

AN ACT Relating to payment agreements; and amending RCW 39.96.020.

Referred to Committee on Government Operations & Elections.

SHB 1502 by House Committee on Finance (originally sponsored by Representatives Takko and DeBolt)

AN ACT Relating to tax abatements for property damaged or destroyed by natural disasters; and amending RCW 84.70.010.

Referred to Committee on Ways & Means.

HB 1533 by Representatives Appleton, Bailey, Cody, Morrell, Skinner, Hinkle, Curtis and Campbell

AN ACT Relating to inspection of hospitals; and amending RCW 70.41.120 and 70.41.122.

Referred to Committee on Health & Long-Term Care.

2SHB 1542 by House Committee on Appropriations (originally sponsored by Representatives Lantz, Hinkle, Appleton, Rodne, Lovick, Newhouse, Buri, Darneille, Williams, McDermott, Clibborn, Schual-Berke, O'Brien, McIntire, Kagi, Hasegawa, Dickerson, Green, Kenney and Kilmer)

AN ACT Relating to indigent defense services; amending RCW 10.101.005 and 10.101.030; adding new sections to chapter 10.101 RCW; and creating a new section.

Referred to Committee on Judiciary.

HB 1599 by Representatives Takko, Wallace and Woods

AN ACT Relating to the definition of "county engineer"; and amending RCW 36.75.010.

Referred to Committee on Transportation.

HB 1600 by Representatives Takko, Wallace and Woods

AN ACT Relating to county road construction projects reporting requirements; and amending RCW 36.77.065 and 36.81.130.

Referred to Committee on Transportation.

E2SHB 1605 by House Committee on Appropriations (originally sponsored by Representatives Upthegrove, Dickerson, Schual-Berke, Cody, McDermott, Hunter, B. Sullivan, Simpson, Morrell, Murray, Chase, Roberts, Kenney and Santos)

AN ACT Relating to protecting children from area-wide soil contamination; adding a new chapter to Title 70 RCW; and creating a new section.

Referred to Committee on Water, Energy & Environment.

ESHB 1635 by House Committee on Local Government (originally sponsored by Representatives Kessler, Haler, Clibborn, Jarrett, O'Brien, Hankins, Ericks, Grant, Buck, Chase and Kenney)

AN ACT Relating to ambulance and emergency medical service funding; amending RCW 35.21.766; and creating a new section.

Referred to Committee on Government Operations & Elections.

SHB 1648 by House Committee on Criminal Justice & Corrections (originally sponsored by Representatives B. Sullivan, Appleton, Orcutt, Lovick, Campbell, Strow and Hinkle)

AN ACT Relating to increasing the penalty for intercepting, recording, or divulging private communications in executive sessions; amending RCW 42.30.020; adding a new section to chapter 42.30 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

HB 1690 by Representatives Cody and Moeller

AN ACT Relating to the applicability of certain taxes and assessments to state funded health care services; and amending RCW 48.14.0201 and 48.41.090.

Referred to Committee on Ways & Means.

ESHB 1696 by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Blake, Buck, Takko, Holmquist, McCune, Condotta, Hinkle and B. Sullivan)

AN ACT Relating to enhanced fish and wildlife penalties; amending RCW 77.15.070, 77.15.370, 77.15.410, 77.15.420, and 77.15.450; adding a new section to chapter 77.15 RCW; and prescribing penalties.

Referred to Committee on Natural Resources, Ocean & Recreation.

ESHB 1703 by House Committee on Finance (originally sponsored by Representatives Jarrett and Sells)

AN ACT Relating to fare cards for transportation facilities and services; and amending RCW 63.29.010 and 63.29.190.

Referred to Committee on Financial Institutions, Housing & Consumer Protection.

SHB 1711 by House Committee on Transportation

(originally sponsored by Representatives Wallace, Woods, Simpson, Morrell, Lovick, Flannigan, Chase, Moeller and Kilmer)

AN ACT Relating to parking places for persons with disabilities; amending RCW 46.61.581, 46.16.381, 46.16.385, and 46.16.390; and reenacting and amending RCW 46.55.113 and 73.04.110.

Referred to Committee on Transportation.

HB 1742 by Representatives Clibborn, Haler, Appleton, Ericks, Simpson, Kristiansen, Linville, Schindler and Quall

AN ACT Relating to tax incentives for certain multiple-unit dwellings in urban centers; and amending RCW 84.14.010.

Referred to Committee on Ways & Means.

E2SHB 1794 by House Committee on Appropriations (originally sponsored by Representatives Kenney, Cox, Sommers, Fromhold, Priest, Sells, Moeller, Hasegawa, Conway, Ormsby, McCoy, Roberts, Kessler, Darneille, O'Brien, Murray, Dickerson, Lantz, Williams, Chase, Hunter, Lovick, Dunshee, Kagi, Morrell, Haigh, McDermott, Wood and Hudgins)

AN ACT Relating to expanding access to baccalaureate degree programs; amending RCW 28B.45.014, 28B.45.020, 28B.45.030, 28B.45.040, 28B.50.020, 28B.50.030, 28B.50.140, 28B.15.069, and 28B.76.230; adding new sections to chapter 28B.50 RCW; creating new sections; and providing an expiration date.

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

SHB 1798 by House Committee on Transportation (originally sponsored by Representatives Simpson, Skinner, Lovick, Armstrong, B. Sullivan, Schindler, Upthegrove, Murray and Hudgins)

AN ACT Relating to motorist information sign panels; amending RCW 47.36.310; reenacting and amending RCW 47.36.320; creating a new section; and repealing RCW 47.36.325.

Referred to Committee on Transportation.

SHB 1817 by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Ericks, Hinkle, Simpson, Buck, Murray, Hankins, Williams, Haigh and McDermott)

AN ACT Relating to ensuring the lawful transport and handling of recyclable materials; amending RCW 70.95.305; reenacting and amending RCW 70.95.020; adding new sections to chapter 70.95 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Water, Energy & Environment.

SHB 1854 by House Committee on Judiciary (originally sponsored by Representatives Lantz, Priest, Haler, Walsh and Williams)

AN ACT Relating to withholding of the driving privilege; amending RCW 46.20.265, 46.20.270, 46.20.285, 46.20.289, 46.20.324, 46.20.334, and 46.63.110; adding a new section to chapter 46.20 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Transportation.

E2SHB 1896 by House Committee on Appropriations (originally sponsored by Representatives Appleton, Eickmeyer, Chase and Haigh)

AN ACT Relating to geoduck harvest in Hood Canal; adding new sections to chapter 79.96 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 1951 by House Committee on Education (originally sponsored by Representatives Quall, Talcott, Haler, Morrell, Campbell, O'Brien, Hankins, Kagi and McDermott)

AN ACT Relating to vision exams for school-aged children; adding a new section to chapter 28A.210 RCW; and creating a new section.

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

SHB 1975 by House Committee on Finance (originally sponsored by Representatives Springer, Tom, B. Sullivan, O'Brien, Cody, Kagi, Blake, Orcutt, McIntire, Nixon, Hinkle, Condotta, Haigh and Kenney)

AN ACT Relating to the excise taxation of trail maintenance and construction services; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 2081 by House Committee on Select Committee on Hood Canal (originally sponsored by Representatives Eickmeyer, McCoy, Chase, Appleton and Haigh)

AN ACT Relating to creating an aquatic rehabilitation zone designation as a framework for Hood Canal recovery programs; adding a new chapter to Title 90 RCW; and declaring an emergency.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 2085 by House Committee on Transportation (originally sponsored by Representatives Simpson, Hankins, Murray, Haler, Morris, Ormsby, B. Sullivan, Dickerson, Chase, Wood and Ericks)

AN ACT Relating to cleanup of waste tires; amending RCW 70.95.510, 70.95.530, 70.95.555, 70.95.560, and 70.95.903; adding new sections to chapter 70.95 RCW; creating a new section; making appropriations; providing an effective date; and declaring an emergency.

Referred to Committee on Water, Energy & Environment.

SHB 2086 by House Committee on Select Committee on Hood Canal (originally sponsored by Representatives McCoy, Eickmeyer, Chase, Wallace, Blake, Linville, Morrell, Upthegrove, Appleton and Hunt)

AN ACT Relating to authorizing extension or expansion of sewage treatment systems in rural areas when necessary to

address Hood Canal concerns; creating new sections; and declaring an emergency.

Referred to Committee on Water, Energy & Environment.

ESHB 2097 by House Committee on Select Committee on Hood Canal (originally sponsored by Representatives Eickmeyer, Upthegrove, Hunt, B. Sullivan, Chase, Ericks, McCoy, Hunter, Pettigrew and Appleton)

AN ACT Relating to establishing a management program for Hood Canal rehabilitation; adding new sections to chapter 90.-RCW; creating a new section; and declaring an emergency.

Referred to Committee on Natural Resources, Ocean & Recreation.

EHB 2105 by Representatives Chase, DeBolt, Eickmeyer, Hinkle, Kessler, O'Brien, McCune, Ormsby, Hankins, Clements, Hasegawa, Ericks, Upthegrove, Moeller, Flannigan, Appleton, Hunt and McCoy

AN ACT Relating to including the Hood Canal area in the state's on-site sewage grant program; amending RCW 90.71.100; and declaring an emergency.

Referred to Committee on Water, Energy & Environment.

HB 2282 by Representatives Sommers, O'Brien, Haler and Skinner

AN ACT Relating to the costs of transporting offender property upon transfer; amending RCW 72.02.045; and declaring an emergency.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of House Bill No. 1487 which was referred to the Committee on Government Operations & Elections.

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 5330, by Senators Shin, Rasmussen, Berkey, McAuliffe and Kohl-Welles

Creating the economic development grants program.

The measure was read the second time.

#### MOTION

On motion of Senator Shin, the rules were suspended, Senate Bill No. 5330 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5330.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate

Bill No. 5330 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 43

Absent: Senators Deccio and Stevens - 2

Excused: Senators Doumit, Oke, Prentice and Zarelli - 4

SENATE BILL NO. 5330, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5992, by Senators Kohl-Welles and Parlette

Modifying self-insurer assessments under the second injury fund.

#### MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5992 was substituted for Senate Bill No. 5992 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5992 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Mulliken, Senator Deccio was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5992.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5992 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 44

Absent: Senator Hargrove - 1

Excused: Senators Doumit, Oke, Prentice and Zarelli - 4

SUBSTITUTE SENATE BILL NO. 5992, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5052, by Senators Johnson, Kline and Rockefeller

Creating the uniform estate tax apportionment act.

#### MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 5052 was substituted for Senate Bill No. 5052 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 5052 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Johnson and Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5052.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5052 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators Doumit, Oke and Prentice - 3

SUBSTITUTE SENATE BILL NO. 5052, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5237, by Senators Keiser, Kohl-Welles, Parlette, Honeyford, Prentice and Shin

Requiring mandatory electronic data reporting under Title 51 RCW for workers' compensation self-insurers.

#### MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5237 was substituted for Senate Bill No. 5237 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5237 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5237.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5237 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Doumit and Prentice - 2

SUBSTITUTE SENATE BILL NO. 5237, having received the constitutional majority, was declared passed. There being no

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

#### SECOND READING

SENATE BILL NO. 5551, by Senators Hargrove, Hewitt, Schoesler, Mulliken, Parlette and Oke

Studying the minimum wage.

#### MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5551 was substituted for Senate Bill No. 5551 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5551 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5551.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5551 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 47

Voting nay: Senators Fairley and Thibaudeau - 2

SUBSTITUTE SENATE BILL NO. 5551, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Keiser: "I would like to say thank you to the President of the Senate for your kind consideration with the event on Friday. I appreciate that neither myself nor my colleague, Senator Rockefeller were graveled down for our antics in the aisle. I do appreciate that and I also appreciate your kind thoughts and the signed CD.

#### REPLY BY THE PRESIDENT

President Owen: "Your welcome."

#### SECOND READING

SENATE BILL NO. 5614, by Senators Keiser, Parlette, Rasmussen, Hargrove, Honeyford, Mulliken, Berkey, Oke and Kohl-Welles

Requiring annual audits of the state industrial insurance fund. Revised for 1st Substitute: Requiring industrial insurance fund audits.

#### MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5614 was substituted for Senate Bill No. 5614 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5614 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

#### MOTION

On motion of Senator McAuliffe, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5614.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5614 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Prentice - 1

SUBSTITUTE SENATE BILL NO. 5614, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5325, by Senators Zarelli, Brown, Doumit, Kline, Shin, Sheldon, Pflug, Mulliken, Kohl-Welles, Rasmussen and Pridemore

Promoting economic development and community revitalization.

The measure was read the second time.

#### MOTION

On motion of Senator Zarelli, the rules were suspended, Senate Bill No. 5325 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Zarelli, Brown and Shin spoke in favor of passage of the bill.

Senator Pridemore spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5325.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5325 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Voting nay: Senators Fairley, Honeyford and Pridemore - 3

SENATE BILL NO. 5325, having received the constitutional

majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5699, by Senators Oke, Jacobsen, Spanel, Doumit, Kline, Rockefeller and Rasmussen

Preventing and controlling aquatic invasive species and algae.

#### MOTION

On motion of Senator Oke, Substitute Senate Bill No. 5699 was substituted for Senate Bill No. 5699 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 6, after line 1, insert the following:

"NEW SECTION. **Sec. 7.** Section 2 of this act expires June 30, 2012."

Senator Oke spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Oke and Jacobsen on page 6, after line 1 to Engrossed Substitute Senate Bill No. 5699.

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

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

On page 1, line 4 of the title, after "RCW;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

#### MOTION

On motion of Senator Oke, the rules were suspended, Engrossed Substitute Senate Bill No. 5699 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5699.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5699 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Voting nay: Senators Benton, Mulliken and Stevens - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 5699, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### MOTION

On motion of Senator Weinstein, Senator Pridemore was excused.

#### SECOND READING

SENATE BILL NO. 5583, by Senators Regala, Hargrove, McAuliffe, Stevens, Carrell, Kline, Rasmussen and Kohl-Welles

Older child victims of abuse.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following striking amendment by Senators Regala, Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 26.44 RCW to read as follows:

(1) The department shall develop a curriculum designed to train the staff of the department's children's administration who assess or provide services to adolescents on how to screen and respond to referrals to child protective services when those referrals may involve victims of abuse or neglect between the ages of eleven and eighteen. At a minimum, the curriculum developed pursuant to this section shall include:

(a) Review of relevant laws and regulations, including the requirement that the department investigate complaints if a parent's or caretaker's actions result in serious physical or emotional harm or present an imminent risk of serious harm to any person under eighteen;

(b) Review of policies of the department's children's administration that require assessment and screening of abuse and neglect referrals on the basis of risk and not age;

(c) Explanation of safety assessment and risk assessment models;

(d) Case studies of situations in which the department has received reports of alleged abuse or neglect of older children and adolescents;

(e) Discussion of best practices in screening and responding to referrals involving older children and adolescents; and

(f) Discussion of how abuse and neglect referrals related to adolescents are investigated and when law enforcement must be notified.

(2) As it develops its curriculum pursuant to this section, the department shall request that the office of the family and children's ombudsman review and comment on its proposed training materials. The department shall consider the comments and recommendations of the office of the family and children's ombudsman as it develops the curriculum required by this section.

(3) The department shall complete the curriculum materials required by this section no later than December 31, 2005.

(4) The department shall train the child protective services workers who screen intake calls on how to screen and respond to referrals that may involve victims of abuse or neglect between the ages of eleven and eighteen. The training shall be based substantially on the curriculum developed pursuant to this act and shall be completed by December 31, 2005.

(5) The department shall use the curriculum to train all children's administration staff responsible for assessing or providing services to older children and adolescents by April 30, 2006.

(6) The department shall include the curriculum in its training of all new employees of children's administration.

(7) The department shall keep a record of all of the employees who have attended the training required by this section.

(8) The department shall review a sampling of not less than thirty percent of the screening decisions by child protective services related to children between the ages of eleven and eighteen on a quarterly basis through June 30, 2007. The department shall use the results of the quarterly reviews required by this section to improve practice and to improve the curriculum required by this section.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Regala to Engrossed Senate Bill No. 5583.

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

#### MOTION

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

On page 1, line 2 of the title, after "neglect," strike the remainder of the title and insert "adding a new section to chapter 26.44 RCW; and declaring an emergency."

#### MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Senate Bill No. 5583 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5583.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5583 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

ENGROSSED SENATE BILL NO. 5583, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5584, by Senators Jacobsen, Swecker and Haugen

Authorizing a customer facility charge on rental car customers to finance consolidated rental car facilities.

#### MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 5584 was substituted for Senate Bill No. 5584 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 5584 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen spoke in favor of passage of the bill.

#### PARLIAMENTARY INQUIRY

Senator Benton: "I know that some of you might think well, gee this is only effects the folks in Seattle and no folks at Sea Tac. I would say that that's not true unfortunately if it were true then I wouldn't be standing right now. It affects everybody that comes to

the great state of Washington that flies into Seattle and what were asking the folks here on the floor today to do is to vote for a tax increase to help private companies build new facilities. Quite frankly I think that's wrong. I also think its unconstitutional and the fact of the matter is if we keep raising these fees on rental cars people are going to start renting cars in Portland and driving to Seattle. I mean there's already significant fees on rental cars in Seattle. Well, gee, a tax as those folks have come here and it doesn't tax our citizens per se'. My argument against that is it cost us a lot of money. When people start adding up the cost of what the hotel tax, the sales tax, the gas tax and now your going to add another very hefty fee on the one that is already is heavily tax rental cars. It will eventually affect the tourist that come to Washington state and so that will hurt all the business'. We have to be competitive with other markets that draw tourism. If you think that tourist don't check on these things, your wrong, they do. They look to see how their vacation is going cost and especially if they come here once and they turn in their rental car, they go wow they get whacked with a twenty or thirty dollar fee in addition to all the other taxes then they won't come here again. So, I ask you to take careful look at this. If the rental car company's, I know they've testified in favor of it. If they want to build a new facility there to help rent more of their cars and make is easier for their customers then why aren't they paying for it? Why are we asking the citizens of the state and tax payers that come and rent the cars to pay for this facility. And finally, Mr. President, I'd like to ask for a ruling on the constitutional question as to whether or not this is public support of a private enterprise which is specifically forbidden in the Washington state constitution."

#### MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5584 was deferred and the bill held its place on the third reading calendar.

#### SECOND READING

SENATE BILL NO. 5775, by Senator Mulliken

Providing funds for the maintenance and preservation of small city and town streets. Revised for 1st Substitute: Authorizing the creation of a small city or town street and sidewalk improvement program.

#### MOTIONS

On motion of Senator Mulliken, Substitute Senate Bill No. 5775 was substituted for Senate Bill No. 5775 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Mulliken, the rules were suspended, Substitute Senate Bill No. 5775 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Mulliken spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5775.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5775 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Absent: Senator McCaslin - 1

SUBSTITUTE SENATE BILL NO. 5775, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 16, 2005."

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

The motion by Senator Eide carried and debate is limited through March 16, 2005.

#### SECOND READING

SENATE BILL NO. 5902, by Senators Eide, Shin, Zarelli, Doumit, Rasmussen and Pflug

Establishing a small business innovation research program proposal review process.

#### MOTIONS

On motion of Senator Eide, Substitute Senate Bill No. 5902 was substituted for Senate Bill No. 5902 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Eide, the rules were suspended, Substitute Senate Bill No. 5902 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide, Pflug and Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5902.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5902 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Absent: Senator Deccio - 1

SUBSTITUTE SENATE BILL NO. 5902, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5788, by Senators Doumit, Kastama, Mulliken, Haugen, Morton, Poulsen, Pridemore and Berkey

Improving recycling.

#### MOTION

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

### MOTION

Senator Doumit moved that the following striking amendment by Senators Doumit and Poulsen be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to improve recycling, eliminate illegal disposal of recyclable materials, protect consumers from sham recycling, and to further the purposes of RCW 70.95.020 and the goal of consistency in jurisdictional treatment of the statewide solid waste management plan adopted by the department of ecology.

**Sec. 2.** RCW 70.95.020 and 1998 c 156 s 1 and 1998 c 90 s 1 are each reenacted and amended to read as follows:

The purpose of this chapter is to establish a comprehensive statewide program for solid waste handling, and solid waste recovery and/or recycling which will prevent land, air, and water pollution and conserve the natural, economic, and energy resources of this state. To this end it is the purpose of this chapter:

(1) To assign primary responsibility for adequate solid waste handling to local government, reserving to the state, however, those functions necessary to assure effective programs throughout the state;

(2) To provide for adequate planning for solid waste handling by local government;

(3) To provide for the adoption and enforcement of basic minimum performance standards for solid waste handling, including that all sites where recyclable materials are generated and transported from shall provide a separate container for solid waste;

(4) To encourage the development and operation of waste recycling facilities needed to accomplish the management priority of waste recycling, ~~((and))~~ to promote consistency in the requirements for such facilities throughout the state, and to ensure that recyclable materials diverted from the waste stream for recycling are routed to facilities in which recycling occurs;

(5) To provide technical and financial assistance to local governments in the planning, development, and conduct of solid waste handling programs;

(6) To encourage storage, proper disposal, and recycling of discarded vehicle tires and to stimulate private recycling programs throughout the state; and

(7) To encourage the development and operation of waste recycling facilities and activities needed to accomplish the management priority of waste recycling and to promote consistency in the permitting requirements for such facilities and activities throughout the state.

It is the intent of the legislature that local governments be encouraged to use the expertise of private industry and to contract with private industry to the fullest extent possible to carry out solid waste recovery and/or recycling programs.

**Sec. 3.** RCW 70.95.305 and 1998 c 156 s 5 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, the department may by rule exempt from the requirements to obtain a solid waste handling permit any category of solid waste handling facility that it determines to:

(a) Present little or no environmental risk; and

(b) Meet the environmental protection and performance requirements required for other similar solid waste facilities.

(2) This section does not apply to any facility or category of facilities that:

(a) Receives municipal solid waste destined for final disposal, including but not limited to transfer stations, landfills, and incinerators;

(b) Applies putrescible solid waste on land for final disposal purposes;

(c) Handles mixed solid wastes that have not been processed to segregate solid waste materials destined for disposal from other solid waste materials destined for a beneficial use or recycling;

(d) Receives or processes organic waste materials into compost in volumes that generally far exceed those handled by municipal park departments, master gardening programs, and households; or

(e) Receives solid waste destined for recycling or reuse, the operation of which is determined by the department to present risks to human health and the environment.

(3) Rules adopted under this section shall contain such terms and conditions as the department deems necessary to ensure compliance with applicable statutes and rules. If a facility does not operate in compliance with the terms and conditions established for an exemption under subsection (1) of this section, the facility is subject to the permitting requirements for solid waste handling under this chapter.

(4) This section shall not be deemed to invalidate the exemptions or determinations of nonapplicability in the department's solid waste rules as they exist on June 11, 1998, which exemptions and determinations are recognized and confirmed subject to the department's continuing authority to modify or revoke those exemptions or determinations by rule.

**NEW SECTION. Sec. 4.** A new section is added to chapter 70.95 RCW to read as follows:

(1) For the purposes of this section and section 5 of this act, "transporter" means any person or entity that transports recyclable materials from commercial or industrial generators over the public highways of the state of Washington for compensation, and who are required to possess a permit to operate from the Washington utilities and transportation commission under chapter 81.80 RCW. "Transporter" includes commercial recycling operations of certificated solid waste collection companies as provided in chapter 81.77 RCW. "Transporter" does not include:

(a) Carriers of commercial recyclable materials, when such materials are owned or being bought or sold by the entity or person, and being carried in their own vehicle, when such activity is incidental to the conduct of an entity or person's primary business;

(b) Entities or persons hauling their own recyclables or hauling recyclables they generated or purchased and transported in their own vehicles;

(c) Nonprofit or charitable organizations collecting and transporting recyclable materials from a buyback center, drop box, or from a commercial or industrial generator of recyclable materials;

(d) City municipal solid waste departments or city solid waste contractors; or

(e) Common carriers under chapter 81.80 RCW whose primary business is not the transportation of recyclable materials.

(2) All transporters shall register with the department prior to the transportation of recyclable materials. The department shall supply forms for registration.

(3) A transporter who transports recyclable materials within the state without a transporter registration required by this section is subject to a civil penalty in an amount up to one thousand dollars per violation.

**NEW SECTION. Sec. 5.** A new section is added to chapter 70.95 RCW to read as follows:

(1) A transporter may not deliver any recyclable materials for disposal to a transfer station or landfill.

(2) A transporter shall keep records of locations and quantities specifically identified in relation to a generator's name, service date, address, and invoice, documenting where recyclables have been sold, delivered for processing, or otherwise marketed. These records must be retained for two years from the date of collection, and must be made accessible for inspection by the department and the local health department.

(3) A transporter who violates the provisions of this section is subject to a civil penalty of up to one thousand dollars per violation.

**NEW SECTION. Sec. 6.** A new section is added to chapter 70.95 RCW to read as follows:

Any person damaged by a violation of sections 4 through 8 of this act may bring a civil action for such a violation by seeking either injunctive relief or damages, or both, in the superior court of the county in which the violation took place or in Thurston county. The prevailing party in such an action is entitled to reasonable costs and attorneys' fees, including those on appeal.

**NEW SECTION. Sec. 7.** A new section is added to chapter 70.95 RCW to read as follows:

(1) All facilities that recycle solid waste, except for those facilities with a current solid waste handling permit issued under RCW 70.95.170, must notify the department and jurisdictional health department in writing within thirty days prior to operation, or ninety days from the effective date of this section for existing recycling operations, of the intent to conduct recycling in accordance with this section. Notification must be in writing, and include:

(a) Contact information for the person conducting the recycling activity;

(b) A general description of the recycling activity;

(c) A description of the types of solid waste being recycled; and

(d) A general explanation of the recycling processes and methods.

(2) Each facility that recycles solid waste, except those facilities with a current solid waste handling permit issued under RCW 70.95.170, shall prepare and submit an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report must detail recycling activities during the previous calendar year and include the following information:

(a) The name and address of the recycling operation;

(b) The calendar year covered by the report;

(c) The annual quantities and types of waste received, recycled, and disposed, in tons, for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4); and

(d) Any additional information required by written notification of the department that is needed to determine progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4).

(3) Any facility, except for product take-back centers, that recycles solid waste materials within the state without first obtaining a solid waste handling permit under RCW 70.95.170 or completing a notification under this section is subject to a civil penalty of up to one thousand dollars per violation.

(4) Facilities that collect, recover, process, or otherwise recycle scrap metal, processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal are exempt from the requirements of this section.

**NEW SECTION. Sec. 8.** A new section is added to chapter 70.95 RCW to read as follows:

(1) The department may adopt rules that establish financial assurance requirements for recycling facilities that do not already have financial assurance requirements under this chapter, or are not already specifically exempted from financial assurance requirements under this chapter. The financial assurance requirements must take into consideration the amounts and types of recyclable materials recycled at the facility, and the potential closure and postclosure costs associated with the recycling facility; which assurance may consist of posting of a surety bond in an amount sufficient to meet these requirements or other financial instrument, but in no case less than ten thousand dollars.

(2) A recycling facility is required to meet financial assurance requirements adopted by the department by rule, unless the facility is already required to provide financial assurance under other provisions of this chapter.

(3) Facilities that collect, recover, process, or otherwise recycle scrap metal, processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal are exempt from the requirements of this section.

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senators Doumit and Morton spoke in favor of adoption of the striking amendment.

#### POINT OF INQUIRY

Senator Roach: "Will Senator Doumit yield to a question? I'm reading in the background, it says that if you're a solid waste

company and you are, it says, it essentially says here if you are in a city the cities regulations take effect. But the way I'm reading this, if you happen to be in a county then we're asking the state to do the regulation. My question to you is 'why wouldn't it fall naturally if your picking up refuge in a county that the county, one of the thirty-nine counties would not be the regulations as the cities are allowed to do."

Senator Doumit: "Currently I don't know of any counties that do that type of regulations. That they the state do it for them. The cities do handle waste in a different manner and I would have to do more research to give you a better answer than that."

Senator Roach: "Thank you, thank you Senator."

Senator Doumit: "The UTC is the state agency which generally is regulating the garbage and waste handling for the counties."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Doumit and Poulsen to Substitute Senate Bill No. 5788.

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

#### MOTION

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

On page 1, line 2 of the title, after "materials;" strike the remainder of the title and insert "amending RCW 70.95.305; reenacting and amending RCW 70.95.020; adding new sections to chapter 70.95 RCW; creating a new section; and prescribing penalties."

#### MOTION

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

Senators Doumit and Mulliken spoke in favor of passage of the bill.

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

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5788 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 6; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Weinstein and Zarelli - 43

Voting nay: Senators Fairley, Franklin, Fraser, Pflug, Stevens and Thibaudeau - 6

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

#### SECOND READING

SENATE BILL NO. 5164, by Senators Haugen, Oke, Jacobsen, Swecker, Poulsen, Spanel and Shin

Authorizing the department of transportation to impose impact fees. Revised for 1st Substitute: Authorizing the department of

transportation to impose mitigation or mitigation fees.

MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 5164 was substituted for Senate Bill No. 5164 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, line 12, after "facilities" strike all material through "department" on line 14

On page 2, line 30, after "facilities" strike all material through "36.70A.030" on line 31

On page 3, line 18, after "facilities" strike all material through "36.70A.030" on line 19

On page 3, line 37, after "significance" strike all material through "36.70A.030" on page 4, line 1

Senator Roach spoke in favor of adoption of the amendment.  
Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 1, line 12 to Substitute Senate Bill No. 5164.

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

MOTION

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

On page 2, line 6, after "within" strike "six" and insert "three"

On page 3, line 11, after "within" strike "six" and insert "three"

Senator Benton spoke in favor of adoption of the amendment.  
Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, line 6 to Substitute Senate Bill No. 5164.

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

MOTION

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

On page 2, line 36 after "activity" strike ";" and insert ". The formula or method for calculating the amount of mitigation or mitigation fees shall be approved by the legislature prior to implementation by the department of transportation;"

Senator Esser spoke in favor of adoption of the amendment.  
Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Esser on page 2, line 36 to Substitute Senate Bill No. 5164.

MOTION

Senator Esser demanded a division.

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

The motion by Senator Esser failed and the amendment was not adopted by a rising voice vote.

MOTION

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

On page 3, line 14, after "development" strike "meeting the criteria of "affordable housing" as defined in RCW 43.63A.510"

Senator Mulliken spoke in favor of adoption of the amendment.

Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Mulliken on page 3, line 14 to Substitute Senate Bill No. 5164.

Senator Haugen demanded a division.

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

The motion by Senator Mulliken failed and the amendment was not adopted by a rising voice vote.

MOTION

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

On page 3, line 15, after "43.63A.510;" strike "or"

On page 3, line 19, after "36.70A.030" strike "." and insert "; or"

On page 3, after line 19, insert the following:

"(c) Development within counties with a population density of less than sixty people per square mile, and within any city within such a county."

Senators Mulliken and Sheldon spoke in favor of adoption of the amendment.

Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Mulliken on page 3, line 15 to Substitute Senate Bill No. 5164.

Senator Sheldon demanded a division.

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

The motion by Senator Mulliken failed and the amendment was not adopted by a rising voice vote.

MOTION

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

On page 3, line 16, after "than" strike "twenty-five" and insert "thirty-five"

WITHDRAWAL OF AMENDMENT

On motion of Senator Benton the amendment to Substitute Senate Bill No. 5164 was withdrawn.

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Haugen be adopted.

On page 3, line 19, after "36.70A.030." insert the following:

"However, development activity subject to this exemption may choose, at the developer's option, to subject the development activity to the provisions of this section."

Senators Hargrove and Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Haugen on page 3, line 19 to Substitute Senate Bill No. 5164.

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

## MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli, Swecker and Haugen be adopted.

On page 6, after line 7, insert the following:

"NEW SECTION. Sec. 6. A new section is added to chapter 47.04 RCW to read as follows:

The department of transportation may impose and collect latecomer fees on behalf of another entity for infrastructure improvement projects initially funded partially or entirely by private sources. However, there must be an agreement in place between the department of transportation and the entity before the imposition and collection of any such fees, that specifies (1) the collection process; (2) the maximum amount that may be collected; and (3) the period of time during which the collection may occur."

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

Senators Zarelli and Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Zarelli, Swecker and Haugen on page 6, line 7 to Substitute Senate Bill No. 5164.

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

## MOTION

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

On page 6, line 8, strike all of section 6

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 6, line 8 to Substitute Senate Bill No. 5164.

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

## MOTION

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

On page 6, line 8 strike "2005" and insert "2007"

Senator Stevens spoke in favor of adoption of the amendment. Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Stevens on page 6, line 8 to Substitute Senate Bill No. 5164.

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

## MOTION

There being no objection, the following title amendments were adopted.

In line 4 of the title, after "adding" strike "a new section" and insert "new sections"

In line 3 of the title, after "RCW;" insert "and" and in line 4 of the title, after "RCW" strike everything through "date" in line 5

## MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 5164 was advanced to third

reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Esser spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5164.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5164 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 1; Excused, 0.

Voting yea: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 27

Voting nay: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Parlette, Roach, Schmidt, Schoesler, Sheldon, Stevens and Zarelli - 21

Absent: Senator McAuliffe - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5164, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

## MOTION

On motion of Senator Regala, Senators Rockefeller and Kastama were excused.

## SECOND READING

SENATE BILL NO. 5872, by Senators Stevens, Carrell, Mulliken, Deccio, Finkbeiner, Delvin, Benson, Johnson, Oke, Hewitt and Schmidt

Creating the department of family and children's services.

## MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5872 was substituted for Senate Bill No. 5872 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Stevens moved that the following striking amendment by Senators Stevens and Hargrove be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A task force on the administrative organization, structure, and delivery of services to children and families is created to determine the most appropriate and effective administrative structure for delivery of social and health services to children and families, including juvenile rehabilitation services. The task force shall study how best to ensure that an administration has defined lines of responsibility for delivering services to families and children in need and the best means for the public to hold government accountable for delivery of those services. The task force shall compare the effectiveness of including children and families services delivery within an umbrella agency, such as the current department of social and health services, with establishing a separate department for children and family services whose director reports directly to the governor and is not under the administration of an umbrella agency. The task force shall, as part of the comparison, examine the administrative structures used in other states for the delivery of services to children and families.

**NEW SECTION. Sec. 2.** (1) The task force created in section 1 of this act shall consist of the following members appointed by the governor:

(a) The dean of the school of social work at the University of Washington or an academic professor from a list recommended by the dean;

(b) Two members of the senate, from names recommended by the chair of the senate committee on human services and corrections, which must include one member from the minority party;

(c) Two members of the house of representatives, from names recommended by the chair of the committee on children and family services, which must include one member from the minority party;

(d) An academic professor with expertise in the management of public agencies, from a list of names recommended by the dean of the University of Washington's Daniel J. Evans graduate school of public administration;

(e) A juvenile court administrator, from a list of names recommended by the juvenile court administrators' association;

(f) A family superior court judge, from a list of names recommended by the superior court judges' association;

(g) A law enforcement officer with experience in working with child protective services investigations, from a list of names recommended by the Washington association of sheriffs and police chiefs;

(h) The director of the office of public defense;

(i) The director of the office of the family and children's ombudsman;

(j) A line worker from the department of social and health services, juvenile rehabilitation administration's community supervision and placement services, from a list of names recommended by the federation of state employees;

(k) A line social worker from the department of social and health services with a master's degree in social work and fifteen years' experience in the public or private sector investigating child abuse or neglect and referring families and children to alcohol and substance abuse services, from a list of names recommended by the federation of state employees;

(l) A private vendor of mental health services to families of children and children in both in-home and out-of-home placements as a result of abuse or neglect or for juvenile rehabilitation, from a list of names recommended by the Washington state coalition of children's residential services;

(m) The director of the department of social and health services, children's administration, office of legislative affairs; and

(n) A representative of the governor's office.

(2) The dean of the school of social work at the University of Washington or the academic professor appointed by the governor shall be the chair of the task force.

**NEW SECTION. Sec. 3.** (1) The task force shall study and report findings and recommendations on which administrative and service delivery structures will best accomplish positive outcomes for children and families and efficiencies in administration, including but not limited to:

(a) Reducing the number of children at risk for abuse or neglect and increasing the safety and well-being of children;

(b) Increasing the ability of families to care for their own children and reducing the number of children in foster care;

(c) Increasing placement stability and permanency for children in out-of-home care and reducing unsafe and inappropriate placements;

(d) Delivering appropriate and timely mental health services;

(e) Providing adequate and appropriate staff training and education;

(f) Promoting foster parent recruitment, training, and retention;

(g) Reducing the frequency and duration of sibling separation;

(h) Delivering adequate and timely services to adolescents;

(i) Increasing responsibility and accountability for achieving goals; and

(j) Improving any other measurable outcomes for children and families.

(2) The task force shall study and report findings and recommendations on the costs, benefits, savings, or reductions in services of the various administrative and service delivery structures described in section 1 of this act.

**NEW SECTION. Sec. 4.** The first meeting of the task force shall be no later than May 1, 2005, with subsequent meetings as needed. The task force may consult with others as is needed.

**NEW SECTION. Sec. 5.** The final report of the findings and recommendations shall be provided to appropriate committees of the legislature by December 1, 2005.

**NEW SECTION. Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators Stevens and Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Stevens and Hargrove to Substitute Senate Bill No. 5872.

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

#### MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "creating the joint task force on the administration and delivery of services to children and families; creating new sections; and declaring an emergency."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 5872 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5872.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5872 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 4; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senators Brown, Carrell, Deccio and Doumit - 4

Excused: Senators Kastama and Rockefeller - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5872, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### MOTION

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

#### MOTION

Senator Thibaudeau moved adoption of the following resolution:

#### SENATE RESOLUTION

8634

By Senators Thibaudeau, Kohl-Welles, Parlette and Weinstein

WHEREAS, Founded in 1972, Pacific Northwest Ballet is one of the largest and most highly regarded ballet companies in the nation; and

WHEREAS, Dance Magazine writer Marion Horosko described Pacific Northwest Ballet School as "one of the leading, if not the definitive, professional training school in the country"; and

WHEREAS, In 1977, Pacific Northwest Ballet hired co-artistic directors, Kent Stowell and Francia Russell, and modeled the company after New York City Ballet; and

WHEREAS, As principal choreographer, Stowell created more full-length ballets than any other American artistic director of a major dance company; and

WHEREAS, As school director, Russell developed a complete dance curriculum, attracting talented dancers, artists, choreographers, and staff; and

WHEREAS, For more than 27 years, Stowell and Russell's vision, passion, and commitment to excellence have made Pacific Northwest Ballet a world-class dance organization for generations of artists; and

WHEREAS, Stowell and Russell have received many awards, including the Governor's Arts Award and Honorary Doctorate of Humane Letters from Seattle University; and

WHEREAS, Stowell and Russell are retiring after 27 years at Pacific Northwest Ballet; and

WHEREAS, They will be remembered for their commitment to the arts and dedication to broadening and enriching cultural appreciation, expression, and celebration in the community; and

WHEREAS, Pacific Northwest Ballet has captivated a devoted, supportive, and continually growing audience while maintaining a strong financial foundation;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the artistic leadership of Stowell and Russell, who transformed Pacific Northwest Ballet into an organization of international distinction and provide excellence in dance training and superior performances for all generations; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Kent Stowell and Francia Russell, co-artistic directors of Pacific Northwest Ballet, and Peter A. Horvitz, president of Pacific Northwest Ballet.

Senators Thibaudeau, Keiser and Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8634.

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

#### MOTION

At 12:01 p.m., on motion of Senator Eide, the Senate was declared to be at recess until 1:30 p.m.

The Senate was called to order at 1:30 p.m. by President Owen.

#### MOTION

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

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

On motion of Senator Eide, Gubernatorial Appointment No. 9177, James K. Rottle, as a member of the Board of Trustees, Green River Community College District No. 10, be confirmed.

Senators Eide and Johnson spoke in favor of passage of the motion.

#### MOTION

On motion of Senator Hewitt, Senators Pflug, Mulliken and Swecker were excused.

#### APPOINTMENT OF JAMES K. ROTTLE

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 4; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 41

Absent: Senators Benson, Deccio, Delvin and Finkbeiner - 4

Excused: Senators Mulliken, Pflug, Rockefeller and Swecker - 4

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 5060, by Senators Haugen, Swecker and Jacobsen

Regulating automated traffic safety cameras. Revised for 1st Substitute: Regulating the use of automated traffic safety cameras.

#### MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 5060 was substituted for Senate Bill No. 5060 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 1, line 10, after "ordinance" insert "approved by the state department of transportation"

Senator Roach spoke in favor of adoption of the amendment.

Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 1, line 10 to Substitute Senate Bill No. 5060.

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

#### MOTION

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

On page 1, line 10 after "detect" strike all material through "zone" on line 11, and insert "railroad crossing"

On page 1, line 18, after "restricted to" strike "two-arterial intersections, railroad crossings, and school speed zones" and insert "railroad crossings"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 10 to Substitute Senate Bill No. 5060.

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

#### MOTION

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

On page 1, line 16, after "section" strike ", but are not required to enact an authorizing ordinance." and insert ". Such a local government must discontinue its use of traffic safety cameras until it has passed an authorizing ordinance in compliance with this act."

Renumber the sections consecutively and correct any internal references accordingly.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Benton the amendment to Substitute Senate Bill No. 5060 was withdrawn.

#### MOTION

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

On page 2, line 2, after "only." insert "However, automated traffic safety cameras may not be used on any state highway."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Benton the amendment to Substitute Senate Bill No. 5060 was withdrawn.

#### MOTION

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

On page 3, line 15, after "infractions" strike all material through line 17 and insert "However, all of the revenue generated shall be distributed to the highway safety account."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Benton the amendment to Substitute Senate Bill No. 5060 was withdrawn.

#### MOTION

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

On page 3, line 17, after "46.20.270(3)." insert "However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction."

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 3, line 17 to Senate Bill No. 5060.

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

#### MOTION

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

On page 6, after line 2, insert the following:

"NEW SECTION. **Sec. 4.** This act shall take effect July 01, 2007."

On page 1, line 3 of the title, after "46.63. RCW" insert "; and providing an effective date"

Senator Stevens spoke in favor of adoption of the amendment.

Senator Haugen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Stevens on page 6, after line 2 to Substitute Senate Bill No. 5060.

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

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 5060 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, Oke, Fairley and Swecker spoke in favor of passage of the bill.

Senators Hargrove, Carrell, Sheldon and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5060.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5060 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brandland, Brown, Delvin, Doumit, Eide, Fairley, Franklin, Fraser, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 30

Voting nay: Senators Benson, Benton, Carrell, Deccio, Esser, Finkbeiner, Hargrove, Hewitt, Honeyford, Johnson, Morton, Mulliken, Pflug, Roach, Schmidt, Schoesler, Sheldon, Stevens and Zarelli - 19

ENGROSSED SUBSTITUTE SENATE BILL NO. 5060, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5213, by Senators Brandland, Hargrove, Esser, Regala, McAuliffe, Thibaudeau, Stevens, Kohl-Welles and Shin

Supporting the long-term success of families with children by removing barriers to Temporary Assistance for Needy Families and the WorkFirst programs.

#### MOTION

On motion of Senator Brandland, Second Substitute Senate Bill No. 5213 was substituted for Senate Bill No. 5213 and the second substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Brandland moved that the following striking amendment by Senators Brandland and Regala be adopted:

Strike everything after the enacting clause and insert the following:

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

(1) Too many families with children in Washington are unable to afford shelter, clothing, and other necessities of life; basic necessities that are at the core of economic security and family stability.

(2) Parents who lack resources for shelter, clothing, and transportation are less likely to obtain employment or have the ability to adequately provide for their children's physical and emotional well-being and educational success.

(3) Washington's temporary assistance for needy families helps financially struggling families find jobs, keep their jobs, get better jobs, and build a better life for their children through the WorkFirst program.

(4) Participation in the WorkFirst program through temporary assistance for needy families is an important step towards self-sufficiency and decreased long-term reliance on governmental assistance.

(5) Removing this barrier to participation in temporary assistance for needy families and WorkFirst will serve to strengthen families and communities throughout the state.

(6) Preventing even one percent of these individuals from reoffending by extending economic and employment opportunities will result in law enforcement and correctional savings that substantially exceed the cost of temporary assistance for needy families and WorkFirst services.

**Sec. 2.** RCW 74.08.025 and 2004 c 54 s 5 are each amended to read as follows:

(1) Public assistance may be awarded to any applicant:

(a) Who is in need and otherwise meets the eligibility requirements of department assistance programs; and

(b) Who has not made a voluntary assignment of property or cash for the purpose of qualifying for an assistance grant; and

(c) Who is not an inmate of a public institution except as a patient in a medical institution or except as an inmate in a public institution who could qualify for federal aid assistance: PROVIDED, That the assistance paid by the department to recipients in nursing homes, or receiving nursing home care, may cover the cost of clothing and incidentals and general maintenance exclusive of medical care and health services. The department may pay a grant to cover the cost of clothing and personal incidentals in public or private medical institutions and institutions for tuberculosis. The department shall allow recipients in nursing homes to retain, in addition to the grant to cover the cost of clothing and incidentals, wages received for work as a part of a training or rehabilitative program designed to prepare the recipient for less restrictive placement to the extent permitted under Title XIX of the federal social security act.

(2) Any person otherwise qualified for temporary assistance for needy families under this title who has resided in the state of Washington for fewer than twelve consecutive months immediately preceding application for assistance is limited to the benefit level in the state in which the person resided immediately before Washington, using the eligibility rules and other definitions established under this chapter, that was obtainable on the date of application in Washington state, if the benefit level of the prior state is lower than the level provided to similarly situated applicants in Washington state. The benefit level under this subsection shall be in effect for the first twelve months a recipient is on temporary assistance for needy families in Washington state.

(3) Any person otherwise qualified for temporary assistance for needy families who is assessed through the state alcohol and

substance abuse program as drug or alcohol-dependent and requiring treatment to become employable shall be required by the department to participate in a drug or alcohol treatment program as a condition of benefit receipt.

(4) ~~((In order to be eligible for temporary assistance for needy families benefits, any applicant with a felony conviction after August 21, 1996, involving drug use or possession, must: (a) Have been assessed as chemically dependent by a chemical dependency program approved under chapter 70.96A RCW and be participating in or have completed a coordinated rehabilitation plan consisting of chemical dependency treatment and vocational services; and (b) have not been convicted of a felony involving drug use or possession in the three years prior to the most current conviction:—(5)) Pursuant to 21 U.S.C. 862a(d)(1), the department shall exempt individuals from the eligibility restrictions of 21 U.S.C. 862a(a)(1) and (2) to ensure eligibility for temporary assistance for needy families benefits and federal food assistance.~~

~~—(5)) Pursuant to 21 U.S.C. 862a(d)(1), the department shall exempt individuals from the eligibility restrictions of 21 U.S.C. 862a(a)(1) and (2) to ensure eligibility for temporary assistance for needy families benefits and federal food assistance.~~

**NEW SECTION. Sec. 3.** This act takes effect September 1, 2005."

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

## MOTION

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

Beginning on page 2, line 37 of the amendment, after "(4)" strike all material through "(5))" on page 3, line 8, and insert "In order to be eligible for temporary assistance for needy families benefits, any applicant with a felony conviction ((after August 21, 1996,) involving drug use or possession((, must: (a) Have been assessed as chemically dependent by a chemical dependency program approved under chapter 70.96A RCW and be participating in or have completed a coordinated rehabilitation plan consisting of chemical dependency treatment and vocational services; and (b) have not been convicted of a felony involving drug use or possession in the three years prior to the most current conviction)) after August 21, 1996, and who is found eligible for temporary assistance for needy families benefits after the effective date of this act, shall become ineligible to receive such benefits if he or she is convicted of more than one subsequent felony for drug use or possession after the effective date of this act.

(5)"

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

Senators Brandland and Regala spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment to the striking amendment by Senator Carrell on page 2, line 37 to Second Substitute Senate Bill No. 5213.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Brandland and Regala to Second Substitute Senate Bill No. 5213.

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

## MOTION

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

On page 1, line 3 of the title, after "programs;" strike the

remainder of the title and insert "amending RCW 74.08.025; creating a new section; and providing an effective date."

MOTION

On motion of Senator Brandland, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5213 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brandland spoke in favor of passage of the bill.

MOTION

On motion of Senator Hewitt, Senator Pflug was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5213.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5213 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 46

Voting nay: Senators Carrell and Swecker - 2

Excused: Senator Pflug - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5213, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

SECOND READING

SENATE BILL NO. 5064, by Senators Thibaudeau, Deccio, Jacobsen, Parlette, Kohl-Welles, Weinstein and Keiser

Studying the use of electronic medical records.

MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5064 was substituted for Senate Bill No. 5064 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5064 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5064.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5064 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 2; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 45

Voting nay: Senator Roach - 1

Absent: Senators McAuliffe and Thibaudeau - 2

Excused: Senator Pflug - 1

SUBSTITUTE SENATE BILL NO. 5064, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5158, by Senators Keiser, Brandland, Kastama, Parlette and Benson

Modifying the uniform health care information act.

MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5158 was substituted for Senate Bill No. 5158 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 7, line 21, after "name", strike ", address,".

Senator Keiser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Keiser on page 7, line 21 to Substitute Senate Bill No. 5158.

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

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5158 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5158.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5158 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller,

Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators McAuliffe and Pflug - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5158, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5178, by Senators Kastama, Keiser, Benson and Brandland

Issuing a moratorium on licensing specialty hospitals.

#### MOTIONS

On motion of Senator Kastama, Substitute Senate Bill No. 5178 was substituted for Senate Bill No. 5178 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Substitute Senate Bill No. 5178 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5178.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5178 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Thibaudeau, Weinstein and Zarelli - 44

Voting nay: Senators Benton, Stevens and Swecker - 3

Excused: Senators McAuliffe and Pflug - 2

SUBSTITUTE SENATE BILL NO. 5178, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5340, by Senators Rasmussen, Roach, Shin, Jacobsen, Delvin, Carrell, Rockefeller, Fraser, Franklin, Kastama, Regala and Pridemore

Creating the military department capital account and rental and lease account.

The measure was read the second time.

#### MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 5340 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5340.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5340 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Pflug - 1

SENATE BILL NO. 5340, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5449, by Senators Poulsen, Swecker, Pridemore, Kline, Fraser and Rockefeller

Providing lien authority to the department of ecology to facilitate the recovery of remedial action costs under the model toxics control act.

#### MOTIONS

On motion of Senator Poulsen, Substitute Senate Bill No. 5449 was substituted for Senate Bill No. 5449 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Poulsen, the rules were suspended, Substitute Senate Bill No. 5449 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Poulsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5449.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5449 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 36

Voting nay: Senators Benton, Deccio, Hewitt, Honeyford, Johnson, McCaslin, Mulliken, Roach, Schoesler, Sheldon, Stevens and Zarelli - 12

Excused: Senator Pflug - 1

SUBSTITUTE SENATE BILL NO. 5449, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5552, by Senators Kohl-Welles, McAuliffe, Benton, Johnson, Shin, Carrell, Rasmussen, Mulliken and Roach

Requiring school districts to request information from employment applicants' out-of-state employers.

## MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5552 was substituted for Senate Bill No. 5552 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5552 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Schmidt and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5552.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5552 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senator Brown - 1

Excused: Senator Pflug - 1

SUBSTITUTE SENATE BILL NO. 5552, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5606, by Senators Pridemore, Schmidt, McAuliffe and Kohl-Welles

Concerning the activation of the national guard.

The measure was read the second time.

## MOTION

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

On page 2, after line 21, insert the following:

**“NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.”

Senators Pridemore and Schmidt spoke in favor of adoption of the amendment.

## MOTION

On motion of Senator Weinstein, Senator Fairley was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pridemore on page 2, after line 21 to Senate Bill No. 5606.

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

## MOTION

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

On page 1, line 1 of the title, after “guard;” strike “and”

On page 1, line 2 of the title, after “38.24.010” insert “; and declaring an emergency”

## MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Senate Bill No. 5606 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5606.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5606 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Fairley and Pflug - 2

ENGROSSED SENATE BILL NO. 5606, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 3:02 p.m., on motion of Senator Eide, the Senate was declared to be at recess until 3:45 p.m.

The Senate was called to order at 3:45 p.m. by President Owen.

## MOTION

At 3:46 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:46 p.m. by President Owen.

## SECOND READING

SENATE BILL NO. 6012, by Senators Spanel, Oke, Weinstein, Esser and Rasmussen

Making transportation services an authorized purpose for parking and business improvement areas.

The measure was read the second time.

## MOTION

On motion of Senator Spanel, the rules were suspended, Senate Bill No. 6012 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 6012.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6012 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Voting nay: Senators Hewitt, Mulliken and Stevens - 3

Absent: Senator Hargrove - 1

SENATE BILL NO. 6012, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6022, by Senator Prentice

Revising provisions relating to wastewater treatment and conveyance system projects. Revised for 1st Substitute: Changing provisions relating to surety bonds or insurance for public building or construction contracts.

#### MOTIONS

On motion of Senator Prentice, Substitute Senate Bill No. 6022 was substituted for Senate Bill No. 6022 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Prentice, the rules were suspended, Substitute Senate Bill No. 6022 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### MOTION

On motion of Senator Regala, Senator Hargrove was excused.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6022.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6022 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach,

Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Absent: Senator Parlette - 1

SUBSTITUTE SENATE BILL NO. 6022, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5789, by Senators Prentice and Parlette

Expanding the role of self-insurers in the workers' compensation system.

#### MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5789 was substituted for Senate Bill No. 5789 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5789 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Parlette and Brown spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5789.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5789 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

SUBSTITUTE SENATE BILL NO. 5789, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of inquiry raised by Senator Benton that Senate Bill 5584 takes a two-thirds vote on final passage under statutes enacted by Initiative Number 601 because it imposes a tax, the President finds and rules as follows:

The President has long differentiated between taxes and fees for purposes of I-601 provisions, but a brief review of this precedent is instructive. A "tax" raises revenue for general government purposes. By contrast, a "fee" is charged to a specific class of payors to provide for a specific service, program, or facility. The analysis does not turn on whether a measure calls a specific revenue increase a tax or fee, but rather upon the nexus between the class of those paying and the purpose for which the funds are to be used.

In this case, only those renting cars from an airport will pay this fee. The fee proceeds will be used only to design and construct consolidated rental car facilities at airports, and to provide shuttle service between airport terminals and those facilities. No other class of persons will be paying this amount,

and no funds raised by the fee will be used for any purpose other than those specifically related to airport rental car facilities. As a result, this revenue is properly characterized as a fee and not a tax.

For these reasons, I-601's supermajority provisions are not triggered, and Senator Benton's point is not well-taken. Only a simple majority vote of this body is needed for final passage of this measure.

There being no objection, the Senate resumed consideration of Substitute Senate Bill No. 5584.

#### MOTION

Senator Benton moved that the rules be suspended and that Substitute Senate Bill No. 5584 be returned to second reading for the purpose of an amendment.

Senators Haugen and Eide spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Benton to suspend the rules and return Substitute Senate Bill No. 5584 to second reading for the purpose of an amendment and the motion failed.

#### POINT OF PARLIAMENTARY INQUIRY

Senator Jacobsen: "I understand that the rule is in effect that every member can only speak one time on the bill and I think Senator Benton spoke earlier and if he did he certainly went on for long enough."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5584.

Senators Benton and Swecker spoke against passage of the bill.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5584 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 31

Voting nay: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Parlette, Roach, Schmidt, Schoesler, Sheldon and Stevens - 18

SUBSTITUTE SENATE BILL NO. 5584, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### MOTION

Senator Haugen moved to not adopt the substitute bill.

#### SECOND READING

SENATE BILL NO. 5513, by Senators Haugen, Shin, Kohl-Welles, Rasmussen, Fairley and Prentice

Restructuring certain transportation agencies.

The measure was read the second time.

#### MOTION

Senator Haugen moved that the following striking amendment by Senator Haugen be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that it is in the interest of the state to restructure the roles and responsibilities of the state's transportation agencies in order to improve efficiency and accountability. The legislature also finds that continued citizen oversight of the state's transportation system remains an important priority. To achieve these purposes, the legislature intends to provide direct accountability of the department of transportation to the governor, in his or her role as chief executive officer of state government, by making the secretary of transportation a cabinet-level official. Additionally, it is essential to clearly delineate between the separate and distinct roles and responsibilities of the transportation commission and the department of transportation. Finally, consolidating the research and audit functions of the state's transportation agencies under a single citizen-governed entity, the transportation commission, will better serve the state.

#### **Departmental Governance**

**Sec. 2.** RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, ~~(and)~~ (14) the secretary of health, and (15) the director of financial institutions.

Such officers, except the ~~(secretary of transportation and the)~~ director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. ~~((The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041.))~~ The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

**Sec. 3.** RCW 47.01.041 and 1983 1st ex.s. c 53 s 28 are each amended to read as follows:

The executive head of the department of transportation shall be the secretary of transportation, who shall be appointed by the ~~((transportation commission))~~ governor with the consent of the senate, and shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The secretary shall be an ex officio member of the transportation commission without a vote. ~~((The secretary shall be the chief executive officer of the commission and be responsible to it, and shall be guided by policies established by it.))~~ The secretary shall serve ~~((until removed by the commission, but only for incapacity, incompetence, neglect of duty, malfeasance in office, or failure to carry out the commission's policies. Before a motion for dismissal shall be acted on by the commission, the secretary shall be granted a hearing on formal written charges before the full commission. An action by the commission to remove the secretary shall be final))~~ at the pleasure of the governor.

**Sec. 4.** RCW 47.01.061 and 1987 c 364 s 2 are each amended to read as follows:

(1) The commission shall meet at such times as it deems advisable but at least once every month. It may adopt its own rules and regulations and may establish its own procedure. It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an administrative secretary, and shall elect one of its members chairman for a term of one year. The

chairman shall be able to vote on all matters before the commission. The commission may from time to time retain planners, consultants, and other technical personnel to advise it in the performance of its duties.

(2) The commission shall submit to each regular session of the legislature held in an odd-numbered year its own budget proposal necessary for the commission's operations separate from that proposed for the department.

(3) Each member of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the secretary of transportation, but in no event shall a commissioner be compensated in any year for more than one hundred twenty days, except the chairman of the commission who may be paid compensation for not more than one hundred fifty days. Service on the commission shall not be considered as service credit for the purposes of any public retirement system.

(4) Each member of the commission shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding any commission business.

Sec. 5. RCW 47.01.071 and 1981 c 59 s 2 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate the policies shall provide for the use of integrated, intermodal transportation systems to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy. To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) Propose a transportation policy for the state ~~(, and after notice and public hearings, submit the proposal to the legislative transportation committee and the senate and house transportation committees by January 1, 1978, for consideration in the next legislative session);~~

(d) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature;

(e) To integrate the statewide transportation plan with the needs of the elderly and handicapped, and to coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) ~~(To establish the policy of the department to be followed by the secretary on each of the following items:~~

~~(a)) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;~~

~~((b)) (3) In conjunction with the provisions under section 6 of this act, to provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;~~

~~((c) To provide for the administration of grants in aid and other financial assistance to counties and municipal corporations for transportation purposes;~~

~~(d) To provide for the management, sale, and lease of property or property rights owned by the department which are not required for transportation purposes;~~

~~(3)) (4) To ((direct the secretary to)) prepare ((and submit to the commission)) a comprehensive and balanced statewide transportation plan which shall be based on the transportation policy adopted by the governor and the legislature and applicable state and federal laws. ((After public notice and hearings, the commission shall adopt the plan and submit it to the legislative transportation committee and to the house and senate standing committees on transportation before January 1, 1980, for consideration in the 1980 regular legislative session.)) The plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation, prior to each regular session of the legislature during an even-numbered year thereafter. ((A preliminary plan shall be submitted to such committees by January 1, 1979.))~~

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

~~((4)) (5) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;~~

~~((5) To approve and propose to the governor and to the legislature prior to the convening of each regular session during an odd-numbered year a recommended budget for the operation of the department and for carrying out the program of the department for the ensuing biennium. The proposed budget shall separately state the appropriations to be made from the motor vehicle fund for highway purposes in accordance with constitutional limitations and appropriations and expenditures to be made from the general fund, or accounts thereof, and other available sources for other operations and programs of the department;~~

~~(6) To review and authorize all departmental requests for legislation;~~

~~(7)) (6) To approve the issuance and sale of all bonds authorized by the legislature for capital construction of state highways, toll facilities, Columbia Basin county roads (for which reimbursement to the motor vehicle fund has been provided), urban arterial projects, and aviation facilities;~~

~~((8)) (7) To adopt such rules, regulations, and policy directives as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;~~

~~((9) To delegate any of its powers to the secretary of transportation whenever it deems it desirable for the efficient administration of the department and consistent with the purposes of this title;~~

~~(10)) (8) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;~~

~~(9) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.~~

NEW SECTION. Sec. 6. A new section is added to chapter 47.01 RCW to read as follows:

(1) The transportation commission shall provide a forum for the development of transportation policy in Washington state. It may recommend to the secretary of transportation, the governor, and the legislature means for obtaining appropriate citizen and professional involvement in all transportation policy formulation and other matters related to the powers and duties of the department. It may further hold hearings and explore ways to improve the mobility of the citizenry. At least every five years, the commission shall convene regional forums to gather citizen input on transportation issues.

(2) Every two years, in coordination with the development of the state biennial budget, the commission shall prepare the

statewide multimodal transportation progress report that outlines the transportation priorities of the ensuing biennium. The report must:

- (a) Consider the citizen input gathered at the forums;
  - (b) Be developed with the assistance of state transportation-related agencies and organizations;
  - (c) Be developed with the input from state, local, and regional jurisdictions, transportation service providers, and key transportation stakeholders;
  - (d) Be considered by the secretary of transportation and other state transportation-related agencies in preparing proposed agency budgets and executive request legislation;
  - (e) Be submitted by the commission to the governor by October 1st of each even-numbered year for consideration by the governor.
- (3) In fulfilling its responsibilities under this section, the commission may create ad hoc committees or other such committees of limited duration as necessary.
- (4) In order to promote a better transportation system, the commission shall offer policy guidance and make recommendations to the governor and the legislature in key issue areas, including but not limited to:
- (a) Transportation finance;
  - (b) Preserving, maintaining, and operating the statewide transportation system;
  - (c) Transportation infrastructure needs;
  - (d) Promoting best practices for adoption and use by transportation-related agencies and programs;
  - (e) Transportation efficiencies that will improve service delivery and/or coordination;
  - (f) Improved planning and coordination among transportation agencies and providers; and
  - (g) Use of intelligent transportation systems and other technology-based solutions.

**Sec. 7.** RCW 47.01.101 and 1987 c 505 s 48 and 1987 c 179 s 1 are each reenacted and amended to read as follows:

The secretary shall have the authority and it shall be his or her duty (~~subject to policy guidance from the commission~~):

- (1) To serve as chief executive officer of the department with full administrative authority to direct all its activities;
- (2) To organize the department as he or she may deem necessary to carry out the work and responsibilities of the department effectively;
- (3) To designate and establish such transportation district or branch offices as may be necessary or convenient, and to appoint assistants and delegate any powers, duties, and functions to them or any officer or employee of the department as deemed necessary to administer the department efficiently;
- (4) To direct and coordinate the programs of the various divisions of the department to assure that they achieve the greatest possible mutual benefit, produce a balanced overall effort, and eliminate unnecessary duplication of activity;
- (5) To adopt all department rules that are subject to the adoption procedures contained in the state administrative procedure act, except rules subject to adoption by the commission pursuant to statute;
- (6) To maintain and safeguard the official records of the department, including the commission's recorded resolutions and orders;
- (7) To provide, under contract or interagency agreement, full staff support to the commission to assist it in carrying out its functions, powers, and duties (~~and to execute the policy established by the commission pursuant to its legislative authority~~);

(8) To execute and implement the biennial operating budget for the operation of the department in accordance with chapter 43.88 RCW and with legislative appropriation (~~and, in such manner as prescribed therein, to make and report to the commission and the chairs of the transportation committees of the senate and house of representatives, including one copy to the staff of each of the committees, deviations from the planned biennial category A and~~

~~H highway construction programs necessary to adjust to unexpected delays or other unanticipated circumstances.~~);

(9) To advise the governor and the legislature with respect to matters under the jurisdiction of the department; and

(10) To exercise all other powers and perform all other duties as are now or hereafter provided by law.

**Sec. 8.** RCW 47.05.021 and 2002 c 56 s 301 are each amended to read as follows:

(1) The (~~transportation commission is hereby directed to~~) department shall conduct periodic analyses of the entire state highway system, report (~~thereon~~) to the commission and the chairs of the transportation committees of the senate and house of representatives, (including one copy to the staff of each of the committees, biennially and based thereon,) any subsequent recommendations to subdivide, classify, and subclassify (~~according to their function and importance~~) all designated state highways (~~and those added from time to time and periodically review and revise the classifications~~) into the following three functional classes:

(a) The "principal arterial system" shall consist of a connected network of rural arterial routes with appropriate extensions into and through urban areas, including all routes designated as part of the interstate system, which serve corridor movements having travel characteristics indicative of substantial statewide and interstate travel;

(b) The "minor arterial system" shall, in conjunction with the principal arterial system, form a rural network of arterial routes linking cities and other activity centers which generate long distance travel, and, with appropriate extensions into and through urban areas, form an integrated network providing interstate and interregional service; and

(c) The "collector system" shall consist of routes which primarily serve the more important intercounty, intracounty, and intraurban travel corridors, collect traffic from the system of local access roads and convey it to the arterial system, and on which, regardless of traffic volume, the predominant travel distances are shorter than on arterial routes.

(2) (~~In making the functional classification~~) The transportation commission shall adopt (and) a functional classification of highways. The commission shall consider the recommendations of the department and testimony from the public and local municipalities. The commission shall give consideration to criteria consistent with this section and federal regulations relating to the functional classification of highways, including but not limited to the following:

(a) Urban population centers within and without the state stratified and ranked according to size;

(b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;

(c) Feasibility of the route, including availability of alternate routes within and without the state;

(d) Directness of travel and distance between points of economic importance;

(e) Length of trips;

(f) Character and volume of traffic;

(g) Preferential consideration for multiple service which shall include public transportation;

(h) Reasonable spacing depending upon population density; and

(i) System continuity.

(3) The transportation commission or the legislature shall designate state highways of statewide significance under RCW 47.06.140. If the commission designates a state highway of statewide significance, it shall submit a list of such facilities for adoption by the legislature. This statewide system shall include at a minimum interstate highways and other statewide principal arterials that are needed to connect major communities across the state and support the state's economy.

(4) The transportation commission shall designate a freight and goods transportation system. This statewide system shall include state highways, county roads, and city streets. The commission, in cooperation with cities and counties, shall review and make

recommendations to the legislature regarding policies governing weight restrictions and road closures which affect the transportation of freight and goods.

**Sec. 9.** RCW 47.05.030 and 2002 c 5 s 402 are each amended to read as follows:

The transportation commission shall adopt a comprehensive ~~((six-year))~~ ten-year investment program specifying program objectives and performance measures for the preservation and improvement programs defined in this section. In the specification of investment program objectives and performance measures, the transportation commission, in consultation with the Washington state department of transportation, shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The analysis process must ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. The investment program must be revised ~~((biennially, effective on July 1st of odd-numbered years))~~ based on directions by the office of financial management. The investment program must be based upon the needs identified in the state-owned highway component of the statewide transportation plan as defined in RCW 47.01.071(3).

(1) The preservation program consists of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life cycle costing. The preservation program must require use of the most cost-effective pavement surfaces, considering:

- (a) Life-cycle cost analysis;
- (b) Traffic volume;
- (c) Subgrade soil conditions;
- (d) Environmental and weather conditions;
- (e) Materials available; and
- (f) Construction factors.

The comprehensive ~~((six-year))~~ ten-year investment program for preservation must identify projects for two years and an investment plan for the remaining ~~((four))~~ eight years.

(2) The improvement program consists of investments needed to address identified deficiencies on the state highway system to increase mobility, address congestion, and improve safety, support for the economy, and protection of the environment. The ~~((six-year))~~ ten-year investment program for improvements must identify projects for two years and major deficiencies proposed to be addressed in the ~~((six-year))~~ ten-year period giving consideration to relative benefits and life cycle costing. The transportation commission shall give higher priority for correcting identified deficiencies on those facilities classified as facilities of statewide significance as defined in RCW 47.06.140. Project prioritization must be based primarily upon cost-benefit analysis, where appropriate.

The transportation commission shall approve and present the comprehensive ~~((six-year))~~ ten-year investment program to the governor and the legislature ((in support of the biennial budget request under RCW 44.40.070 and 44.40.080)) as directed by the office of financial management.

**Sec. 10.** RCW 47.05.035 and 2002 c 5 s 403 are each amended to read as follows:

(1) The department ~~((and the commission))~~ shall use the transportation demand modeling tools developed under subsection (2) of this section to evaluate investments based on the best mode or improvement, or mix of modes and improvements, to meet current and future long-term demand within a corridor or system for the lowest cost. The end result of these demand modeling tools is to provide a cost-benefit analysis by which the department ~~((and the commission))~~ can determine the relative mobility improvement and congestion relief each mode or improvement under consideration will provide and the relative investment each mode or improvement under consideration will need to achieve that relief.

(2) The department will participate in the refinement, enhancement, and application of existing transportation demand modeling tools to be used to evaluate investments. This

participation and use of transportation demand modeling tools will be phased in.

(3) In developing program objectives and performance measures, the ~~((transportation commission))~~ department shall evaluate investment trade-offs between the preservation and improvement programs. In making these investment trade-offs, the ~~((commission))~~ department shall evaluate, using cost-benefit techniques, roadway and bridge maintenance activities as compared to roadway and bridge preservation program activities and adjust those programs accordingly.

(4) The ~~((commission))~~ department shall allocate the estimated revenue between preservation and improvement programs giving primary consideration to the following factors:

- (a) The relative needs in each of the programs and the system performance levels that can be achieved by meeting these needs;
- (b) The need to provide adequate funding for preservation to protect the state's investment in its existing highway system;
- (c) The continuity of future transportation development with those improvements previously programmed; and
- (d) The availability of dedicated funds for a specific type of work.

(5) The commission shall review the results of the department's findings and shall consider those findings in the development of the ten-year program.

**Sec. 11.** RCW 47.05.051 and 2002 c 189 s 3 are each amended to read as follows:

(1) The comprehensive ~~((six-year))~~ ten-year investment program shall be based upon the needs identified in the state-owned highway component of the statewide multimodal transportation plan as defined in RCW 47.01.071(3) and priority selection systems that incorporate the following criteria:

(a) Priority programming for the preservation program shall take into account the following, not necessarily in order of importance:

- (i) Extending the service life of the existing highway system, including using the most cost-effective pavement surfaces, considering:
  - (A) Life-cycle cost analysis;
  - (B) Traffic volume;
  - (C) Subgrade soil conditions;
  - (D) Environmental and weather conditions;
  - (E) Materials available; and
  - (F) Construction factors;
- (ii) Ensuring the structural ability to carry loads imposed upon highways and bridges; and
- (iii) Minimizing life cycle costs. The transportation commission in carrying out the provisions of this section may delegate to the department of transportation the authority to select preservation projects to be included in the ~~((six-year))~~ ten-year program.

(b) Priority programming for the improvement program must be based primarily upon the following, not necessarily in order of importance:

- (i) Traffic congestion, delay, and accidents;
  - (ii) Location within a heavily traveled transportation corridor;
  - (iii) Except for projects in cities having a population of less than five thousand persons, synchronization with other potential transportation projects, including transit and multimodal projects, within the heavily traveled corridor; and
  - (iv) Use of benefit/cost analysis wherever feasible to determine the value of the proposed project.
- (c) Priority programming for the improvement program may also take into account:
- (i) Support for the state's economy, including job creation and job preservation;
  - (ii) The cost-effective movement of people and goods;
  - (iii) Accident and accident risk reduction;
  - (iv) Protection of the state's natural environment;
  - (v) Continuity and systematic development of the highway transportation network;
  - (vi) Consistency with local comprehensive plans developed under chapter 36.70A RCW including the following if they have been included in the comprehensive plan:

(A) Support for development in and revitalization of existing downtowns;

(B) Extent that development implements local comprehensive plans for rural and urban residential and nonresidential densities;

(C) Extent of compact, transit-oriented development for rural and urban residential and nonresidential densities;

(D) Opportunities for multimodal transportation; and

(E) Extent to which the project accommodates planned growth and economic development;

(vii) Consistency with regional transportation plans developed under chapter 47.80 RCW;

(viii) Public views concerning proposed improvements;

(ix) The conservation of energy resources;

(x) Feasibility of financing the full proposed improvement;

(xi) Commitments established in previous legislative sessions;

(xii) Relative costs and benefits of candidate programs.

(d) Major projects addressing capacity deficiencies which prioritize allowing for preliminary engineering shall be reprioritized during the succeeding biennium, based upon updated project data. Reprioritized projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.

(e) Major project approvals which significantly increase a project's scope or cost from original prioritization estimates shall include a review of the project's estimated revised priority rank and the level of funding provided. Projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.

(2) The commission may depart from the priority programming established under subsection (1) of this section: (a) To the extent that otherwise funds cannot be utilized feasibly within the program; (b) as may be required by a court judgment, legally binding agreement, or state and federal laws and regulations; (c) as may be required to coordinate with federal, local, or other state agency construction projects; (d) to take advantage of some substantial financial benefit that may be available; (e) for continuity of route development; or (f) because of changed financial or physical conditions of an unforeseen or emergent nature. The commission or secretary of transportation shall maintain in its files information sufficient to show the extent to which the commission has departed from the established priority.

(3) The commission shall identify those projects that yield freight mobility benefits or that alleviate the impacts of freight mobility upon affected communities.

### Transportation Policy Institute

**NEW SECTION. Sec. 12.** A new section is added to chapter 47.01 RCW to read as follows:

(1) The transportation policy institute is established within the transportation commission. The institute shall conduct research, prepare studies, and periodically submit recommendations to the legislature, governor, and transportation commission regarding transportation policy issues of statewide significance.

To this end, the purposes of the institute include:

(a) To conduct research on transportation policy and programs for the governor, the legislature, the transportation commission, and the transportation performance audit board;

(b) To educate and promote the dissemination of transportation research to the public, and to state and local government policymakers including legislators and associated staff; and

(c) To serve as a repository of federal, state, local, and private transportation research on financing and programming.

(2) The institute is governed by a board of directors composed of (a) the chairs and ranking minority members of the transportation committees of the legislature, or their designees, (b) the chair and vicechair of the transportation commission, and (c) the secretary of transportation. The executive director of the Washington state transportation center shall serve on the board as an ex officio nonvoting member. The staff coordinators of the transportation committees of the house and senate shall serve on the board as ex officio nonvoting members. The board of

directors shall establish the research priorities of the institute. The board shall meet periodically and may schedule regular meetings during the legislative interim. The board may adopt rules and procedures necessary for its orderly operation. To the extent funds are appropriated, the transportation commission shall provide staff support to the institute, and the transportation commission administrator shall also serve as administrator for the institute. The administrator, subject to the approval of the commission, may contract with and consult with private independent professional and technical experts to conduct studies directed by the institute.

(3) The institute may establish working groups to conduct specific research in order to report back to the institute regarding recommendations as appropriate. The institute may appoint to a working group any member of the transportation committees of the legislature, or any nonlegislators, as deemed appropriate.

(4) Legislative members of the institute and its working groups will receive allowances while attending meetings of the institute, including working group meetings, and while engaged in other authorized business of the institute, as provided in RCW 44.04.120. Nonlegislative members of the institute and its working groups will receive allowances as provided in RCW 43.03.050 and 43.03.060.

### Transportation Performance Audits

**Sec. 13.** RCW 44.75.020 and 2003 c 362 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Economy and efficiency audit" has the meaning contained in chapter 44.28 RCW.

(2) ("~~Joint legislative audit and review committee~~" means the agency created in chapter 44.28 RCW, or its statutory successor.

~~(3))~~ "Legislative auditor" has the meaning contained in chapter 44.28 RCW.

~~((4))~~ "Legislative transportation committee" means the agency created in chapter 44.40 RCW, or its statutory successor.

~~(5))~~ (3) "Performance audit" has the meaning contained in chapter 44.28 RCW.

~~((6))~~ (4) "Performance review" means an outside evaluation of how a state agency uses its performance measures to assess the outcomes of its legislatively authorized activities.

~~((7))~~ (5) "Program audit" has the meaning contained in chapter 44.28 RCW.

~~((8))~~ (6) "Transportation performance audit board" or "board" means the board created in RCW 44.75.030.

~~((9))~~ (7) "Transportation-related agencies" or "agency" means any state or local agency, board, special purpose district, or commission that receives or generates funding primarily for transportation-related purposes. At a minimum, the department of transportation, the Washington state patrol, the department of licensing, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies. Counties, cities, and port districts are not transportation-related agencies under this subsection.

**Sec. 14.** RCW 44.75.030 and 2003 c 362 s 3 are each amended to read as follows:

(1) The transportation performance audit board is created.

(2) The board will consist of four legislative members, ~~(five))~~ three citizen members with transportation-related expertise, two citizen members with performance measurement expertise, one member of the transportation commission, one ex officio nonvoting member, and one at large member. The legislative auditor is the ex officio nonvoting member. The majority and minority leaders of the house and senate transportation committees, or their designees, are the legislative members. The governor shall appoint the at large member to serve for a term of four years. The citizen members must be ~~((nominated by professional associations chosen by the board's legislative members and))~~ appointed by the governor for terms of four years, except that at least half the initial appointments will be for terms

of two years. The citizen members may not be currently, or within one year, employed by the Washington state department of transportation. The ((citizen members will consist of)) governor, when appointing the citizen members with transportation-related expertise, may consult with appropriate professional associations and shall consider the following transportation-related experiences:

(a) ~~((One member with expertise in))~~ Construction project planning, including permitting and assuring regulatory compliance;

(b) ~~((One member with expertise in))~~ Construction means and methods and construction management, crafting and implementing environmental mitigation plans, and administration;

(c) ~~((One member with expertise in))~~ Construction engineering services, including construction management, materials testing, materials documentation, contractor payments, inspection, surveying, and project oversight;

(d) ~~((One member with expertise in))~~ Project management, including design estimating, contract packaging, and procurement; and

(e) ~~((One member with expertise in))~~ Transportation planning and congestion management.

(3) The governor may not remove members from the board before the expiration of their terms unless for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.

(4) No member may be appointed for more than three consecutive terms.

**Sec. 15.** RCW 44.75.040 and 2003 c 362 s 4 are each amended to read as follows:

(1) The board shall meet periodically. It may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members.

(2) Each member of the transportation performance audit board will be compensated from the general appropriation for the ~~((legislative))~~ transportation ((committee)) commission in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The transportation performance audit board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) Staff support to the transportation performance audit board must be provided by the ~~((legislative))~~ transportation ((committee)) commission, which shall provide professional support for the duties, functions, responsibilities, and activities of the board, including but not limited to information technology systems; data collection, processing, analysis, and reporting; project management; and office space, equipment, and secretarial support. ~~((The legislative evaluation and accountability program will provide data and information technology support consistent with the support currently supplied to existing legislative committees:))~~ Additionally, the commission shall designate, subject to board approval, a staff person to serve as the board administrator. The board administrator serves as an exempt employee and at the pleasure of the board.

(5) Each member of the transportation performance audit board shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding all performance reviews and performance audits conducted under this chapter.

**Sec. 16.** RCW 44.75.050 and 2003 c 362 s 5 are each amended to read as follows:

(1) The transportation performance audit board may review the performance and outcome measures of transportation-related agencies. The purpose of these reviews is to ensure that the legislature has the means to adequately and accurately assess the performance and outcomes of those agencies and departments. Where two or more agencies have shared responsibility for functions or priorities of government, these reviews can also determine whether effective interagency cooperation and collaboration occurs in areas such as program coordination, administrative structures, information systems, and administration of grants and loans.

(2) The board shall, as soon as practicable, conduct a review of the comprehensive ten-year investment program process, including the required criteria, under RCW 47.05.030 and 47.05.051.

~~((3))~~ In conducting these reviews, the transportation performance audit board may work in consultation with the ((legislative transportation committee, the)) joint legislative audit and review committee, the office of financial management, and other state agencies.

**Sec. 17.** RCW 44.75.080 and 2003 c 362 s 8 are each amended to read as follows:

After reviewing the performance or outcome measures and benchmarks of an agency or department, or at any time it so determines, the transportation performance audit board shall ~~((recommend to the executive committee of the legislative transportation committee whether))~~ direct a full performance or functional audit of the agency or department, or a specific program within the agency or department ~~((is appropriate. Upon the request of the legislative transportation committee or its executive committee, the joint legislative audit and review committee shall add the full performance or functional audit to its biennial performance audit work plan. If the request duplicates or overlaps audits already in the work plan, or was performed under the previous biennial work plan, the executive committees of the legislative transportation committee and the joint legislative audit and review committee shall meet to discuss and resolve the duplication or overlap)).~~

**Sec. 18.** RCW 44.75.090 and 2003 c 362 s 9 are each amended to read as follows:

~~((+))~~ To the greatest extent possible, ((or when requested by the executive committee of the legislative transportation committee)) and to the extent funds are appropriated, the ((legislative auditor)) board administrator shall, subject to board approval, contract with and consult with private independent professional and technical experts to optimize the independence of the reviews and performance audits. In determining the need to contract with private experts, the ((legislative auditor)) board administrator shall consider the degree of difficulty of the review or audit, the relative cost of contracting for expertise, and the need to maintain auditor independence from the subject agency or program. The board administrator may, subject to board approval, contract with the legislative auditor to serve as the contract manager of the reviews and performance audits.

~~((2))~~ After consultation with the executive committee of the legislative transportation committee on the appropriateness of costs, the legislative transportation committee shall reimburse the joint legislative audit and review committee or the legislative auditor for the costs of carrying out any requested performance audits, including the cost of contracts and consultant services.

~~((3))~~ The executive committee of the legislative transportation committee must review and approve the methodology for performance audits recommended by the transportation performance audit board.

**Sec. 19.** RCW 44.75.100 and 2003 c 362 s 10 are each amended to read as follows:

(1) Before releasing the results of a performance audit originally directed by the transportation performance audit board to the legislature or the public, the board administrator shall submit the preliminary performance audit report to the transportation performance audit board for review and comments solely on the management of the audit. Any comments by the transportation

performance audit board must be included as a separate addendum to the final performance audit report. However, the board administrator is not required to submit the preliminary performance audit report if the legislative auditor submits it under RCW 44.28.088.

(2) Completed performance audits must be presented to the transportation performance audit board (~~and the legislative transportation committee~~). Published performance audits must be made available to the public through the (~~legislative transportation committee and the joint legislative audit and review committee's~~) board's web site and through customary public communications. Final reports must also be transmitted to the affected agency, the director of financial management, and the appropriate policy and fiscal standing committees of the legislature.

**Sec. 20.** RCW 44.75.110 and 2003 c 362 s 11 are each amended to read as follows:

The (~~legislative auditor~~) board administrator, or the legislative auditor if contracted under RCW 44.75.090, shall determine in writing the scope of any performance audit (~~(requested)~~) directed by the (legislative transportation committee or its executive committee) transportation performance audit board, subject to the review and approval of the final scope of the audit by the transportation performance audit board (~~(and the legislative transportation committee or its executive committee)~~). In doing so, the (~~legislative auditor,~~) board administrator, or legislative auditor if contracted under RCW 44.75.090, and the transportation performance audit board (and the legislative transportation committee or its executive committee) shall consider inclusion of the following elements in the scope of the audit:

- (1) Identification of potential cost savings in the agency, its programs, and its services;
- (2) Identification and recognition of best practices;
- (3) Identification of funding to the agency, to programs, and to services that can be eliminated or reduced;
- (4) Identification of programs and services that can be eliminated, reduced, or transferred to the private sector;
- (5) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;
- (6) Analysis and recommendations for pooling information technology systems;
- (7) Analysis of the roles and functions of the agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;
- (8) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the agency carry out reasonably and properly those functions expressly vested in the department by statute; and
- (9) Verification of the reliability and validity of department performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090.

**Sec. 21.** RCW 44.75.120 and 2003 c 362 s 12 are each amended to read as follows:

When conducting a full performance audit of an agency or department, or a specific program within an agency or department, or multiple agencies, in accordance with RCW 44.75.110, the (~~legislative auditor~~) board administrator shall solicit input from appropriate industry representatives or experts. The audit report must make recommendations regarding the continuation, abolition, consolidation, or reorganization of each affected agency, department, or program. The audit report must identify opportunities to develop government partnerships, and eliminate program redundancies that will result in increased quality, effectiveness, and efficiency of state agencies.

**Sec. 22.** RCW 44.28.161 and 2003 c 362 s 13 are each amended to read as follows:

In addition to any other audits developed or included in the audit work plan under this chapter, the legislative auditor shall

manage transportation-related performance audits (directed by the executive committee of the legislative transportation committee under RCW 44.75.080. If directed to perform or contract for audit services under RCW 44.75.080, the legislative auditor or joint legislative audit and review committee will receive from the legislative transportation committee an interagency reimbursement equal to the cost of the contract or audit services) if contracted to do so under RCW 44.75.090.

## Transfer

**NEW SECTION. Sec. 23.** (1)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the legislative transportation committee shall be delivered to the custody of the transportation commission for the exclusive support of the transportation policy institute. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the legislative transportation committee shall be made available to the transportation commission for the exclusive support of the transportation policy institute. All funds, credits, or other assets held by the legislative transportation committee shall be assigned to the transportation commission for the exclusive support of the transportation policy institute.

(b) Any appropriations made to the legislative transportation committee shall, on the effective date of this section, be transferred and credited to the transportation commission for the exclusive support of the transportation policy institute.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(2) All employees of the legislative transportation committee are transferred to the jurisdiction of the transportation commission for the exclusive support of the transportation policy institute. However, the commission may, if staffing needs warrant, assign the employees to other commission functions.

(3) All existing contracts and obligations shall remain in full force and shall be performed by the transportation commission.

(4) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

## References to LTC

**Sec. 101.** RCW 35.58.2796 and 1989 c 396 s 2 are each amended to read as follows:

The department of transportation shall develop an annual report summarizing the status of public transportation systems in the state. By September 1st of each year, copies of the report shall be submitted to the (~~legislative transportation committee~~) transportation committees of the legislature and to each municipality, as defined in RCW 35.58.272, and to individual members of the municipality's legislative authority. (~~The department shall prepare and submit a preliminary report by December 1, 1989.~~)

To assist the department with preparation of the report, each municipality shall file a system report by April 1st of each year with the state department of transportation identifying its public transportation services for the previous calendar year and its objectives for improving the efficiency and effectiveness of those services. The system report shall address those items required for each public transportation system in the department's report.

The department report shall describe individual public transportation systems, including contracted transportation

services and dial-a-ride services, and include a statewide summary of public transportation issues and data. The descriptions shall include the following elements and such other elements as the department deems appropriate after consultation with the municipalities and the ~~((legislative transportation committee)) transportation committees of the legislature:~~

- (1) Equipment and facilities, including vehicle replacement standards;
- (2) Services and service standards;
- (3) Revenues, expenses, and ending balances, by fund source;
- (4) Policy issues and system improvement objectives, including community participation in development of those objectives and how those objectives address statewide transportation priorities;
- (5) Operating indicators applied to public transportation services, revenues, and expenses. Operating indicators shall include operating cost per passenger trip, operating cost per revenue vehicle service hour, passenger trips per revenue service hour, passenger trips per vehicle service mile, vehicle service hours per employee, and farebox revenue as a percent of operating costs.

**Sec. 102.** RCW 36.78.070 and 1999 c 269 s 1 are each amended to read as follows:

The county road administration board shall:

- (1) Establish by rule, standards of good practice for the administration of county roads and the efficient movement of people and goods over county roads;
- (2) Establish reporting requirements for counties with respect to the standards of good practice adopted by the board;
- (3) Receive and review reports from counties and reports from its executive director to determine compliance with legislative directives and the standards of good practice adopted by the board;
- (4) Advise counties on issues relating to county roads and the safe and efficient movement of people and goods over county roads and assist counties in developing uniform and efficient transportation-related information technology resources;
- (5) Report annually before the fifteenth day of January, and throughout the year as appropriate, to the state department of transportation and to the chairs of the ~~((legislative transportation committee and the))~~ house and senate transportation committees, and to other entities as appropriate on the status of county road administration in each county, including one copy to the staff of each of the committees. The annual report shall contain recommendations for improving administration of the county road programs;
- (6) Administer the rural arterial program established by chapter 36.79 RCW and the program funded by the county arterial preservation account established by RCW 46.68.090, as well as any other programs provided for in law.

**Sec. 103.** RCW 41.40.037 and 2004 c 242 s 63 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

(b) A retiree from plan 1 who enters employment with an employer at least three calendar months after his or her accrual date and:

(i) Is hired into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, ~~((the legislative transportation committee,))~~ the joint committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired prior to July 27, 2003, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

**Sec. 104.** RCW 43.10.101 and 1995 2nd sp.s. c 14 s 527 are each amended to read as follows:

The attorney general shall prepare annually a report to the ~~((legislative transportation committee))~~ transportation committees of the legislature, the transportation commission, and the transportation performance audit board comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

(1) A summary of the factual background of the case;

(2) Identification of the attorneys representing the state and the opposing parties;

(3) A synopsis of the legal theories asserted and the defenses presented;

(4) Whether the case was tried, settled, or dismissed, and in whose favor;

(5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and

(6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims.

**Sec. 105.** RCW 43.79.270 and 1998 c 177 s 1 are each amended to read as follows:

(1) Whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

(2) Notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of a department, agency, board, or commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. However, no expenditure may be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate ~~(if the legislature is in session,)~~ at the same time as it is transmitted to the governor. ~~((During the legislative interim, any such proposal must be submitted to the legislative transportation committee.))~~

**Sec. 106.** RCW 43.79.280 and 1998 c 177 s 2 are each amended to read as follows:

(1) If the governor approves such estimate in whole or part, he shall endorse on each copy of the statement his approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the joint legislative audit and review committee and also to the standing committee on ways and means of the house and senate of all executive approvals of proposals to expend money in excess of appropriations provided by law.

(2) If the governor approves an estimate with transportation funding implications, in whole or part, he shall endorse on each copy of the statement his approval, together with a statement of the amount approved in the form of an allotment amendment, and

transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval of a proposal to expend transportation money in excess of appropriations provided by law and a statement of the amount approved for expenditure must be transmitted simultaneously to the standing committees on transportation of the house and senate. ~~((During the legislative interim, all estimate approvals endorsed by the governor along with a statement of the amount approved in the form of an allotment amendment must be transmitted simultaneously to the legislative transportation committee.))~~

**Sec. 107.** RCW 43.88.020 and 2000 2nd sp.s. c 4 s 11 are each amended to read as follows:

(1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal statement, either written or provided on any electronic media or both, offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional, or other, and every department, division, board, and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated, or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means and transportation committees of the senate and house of

representatives(~~(, and, where appropriate, the legislative transportation committee)).~~

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(18) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(19) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(20) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast (~~(including estimates of revenues to support financial plans under RCW 44.40.070)~~), that are prepared by the office of financial management in consultation with the transportation revenue forecast council.

(21) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(22) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(23) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(24) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(25) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(26) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(27) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

(28) "Performance audit" has the same meaning as it is defined in RCW 44.28.005.

**Sec. 108.** RCW 43.88.030 and 2004 c 276 s 908 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of

financial management. (~~The director shall provide agencies and committees that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided.~~) The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast(~~(including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the transportation revenue forecast council)~~). Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources (~~and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070~~). Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium(~~and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070~~);

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity, and agency. However, documents submitted for the 2005-07 biennial budget request need not show expenditures by activity;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium (~~as well as those required to support the six-year programs and financial plans required under RCW 44.40.070~~);

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, (~~legislative transportation committee~~) legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

**Sec. 109.** RCW 43.88.230 and 1996 c 288 s 40 are each amended to read as follows:

For the purposes of this chapter, the statute law committee, the joint legislative audit and review committee, (~~the legislative transportation committee~~) the legislative evaluation and accountability program committee, the office of state actuary, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government.

**Sec. 110.** RCW 43.105.160 and 1999 c 80 s 9 are each amended to read as follows:

(1) The department shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information,

and services. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor(;) and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives(~~(, and, during the legislative session, to the chairs and ranking minority members of the transportation committees of the senate and the house of representatives. During the legislative interim, the approved plan must be submitted to the legislative transportation committee, instead of the standing transportation committees).~~).

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services;

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190;

(e) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

(f) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor(;) and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives(~~(, and, during the legislative session, the chairs and ranking minority members of the transportation committees of the senate and the house of representatives. During the legislative interim, the report must be submitted to the legislative transportation committee, instead of the standing transportation committees).~~).

**Sec. 111.** RCW 43.105.190 and 1999 c 80 s 12 are each amended to read as follows:

(1) The department, with the approval of the board, shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or statewide significance of the project; and

(b) Establish a model process and procedures which agencies shall follow in developing and implementing projects within their information technology portfolios. Agencies may propose, for approval by the department, a process and procedures unique to the agency. The department may accept or require modification of such agency proposals or the department may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the board.

The director may terminate a major project if the director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the director, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the department, that the previous phase is satisfactorily completed;

(b) Acceptance testing of products to assure that products perform satisfactorily before they are accepted and final payment is made; and

(c) Other elements deemed necessary by the office of financial management.

(3) The department shall evaluate projects based on the demonstrated business needs and benefits; cost; technology scope and feasibility; impact on the agency's information technology portfolio and on the statewide infrastructure; and final project implementation plan based upon available funding.

Copies of project evaluations conducted under this subsection shall be submitted to the office of financial management and the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives.

If there are projects that receive funding from a transportation fund or account, copies of those projects' evaluations conducted under this subsection must be submitted(~~(, during the legislative session,)~~) to the chairs and ranking minority members of the transportation committees of the senate and the house of representatives. (~~During the legislative interim, the project evaluations must be submitted to the legislative transportation committee.~~)

**Sec. 112.** RCW 44.04.260 and 2003 c 295 s 12 are each amended to read as follows:

The joint legislative audit and review committee, (~~the legislative transportation committee,~~) the select committee on pension policy, the legislative evaluation and accountability program committee, and the joint legislative systems committee are subject to such operational policies, procedures, and oversight as are deemed necessary by the facilities and operations committee of the senate and the executive rules committee of the house of representatives to ensure operational adequacy of the agencies of the legislative branch. As used in this section, "operational policies, procedures, and oversight" includes the development process of biennial budgets, contracting procedures, personnel policies, and compensation plans, selection of a chief administrator, facilities, and expenditures. This section does not grant oversight authority to the facilities and operations committee of the senate over any standing committee of the house of representatives or oversight authority to the executive rules committee of the house of representatives over any standing committee of the senate.

**Sec. 113.** RCW 44.28.088 and 2003 c 362 s 14 are each amended to read as follows:

(1) When the legislative auditor has completed a performance audit authorized in the performance audit work plan, the legislative auditor shall transmit the preliminary performance audit report to the affected state agency or local government and the office of financial management for comment. The agency or local government and the office of financial management shall provide any response to the legislative auditor within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the joint committee. The legislative auditor shall incorporate the response of the agency or

local government and the office of financial management into the final performance audit report.

(2) Except as provided in subsection (3) of this section, before releasing the results of a performance audit to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the joint committee for its review, comments, and final recommendations. Any comments by the joint committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review, comments, and recommendations of the joint committee, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public. For purposes of this section, "leadership of the senate and the house of representatives" means the speaker of the house, the majority leaders of the senate and the house of representatives, the minority leaders of the senate and the house of representatives, the caucus chairs of both major political parties of the senate and the house of representatives, and the floor leaders of both major political parties of the senate and the house of representatives.

(3) If contracted to manage a transportation-related performance audit under RCW 44.75.090, before releasing the results of a performance audit originally ((requested) directed by the ((executive committee of the legislative transportation committee)) transportation performance audit board to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the ((executive committee of the joint committee and the executive committee of the legislative transportation committee)) transportation performance audit board for review and comments solely on the management of the audit. Any comments by the ((executive committee of the joint committee and executive committee of the legislative transportation committee)) transportation performance audit board must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review and comments of the ((executive committee of the joint committee and executive committee of the legislative transportation committee)) transportation performance audit board, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public.

**Sec. 114.** RCW 44.40.025 and 1996 c 288 s 49 are each amended to read as follows:

~~((In addition to the powers and duties authorized in RCW 44.40.020, the committee and))~~ The standing committees on transportation of the house and senate shall, in coordination with the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives, ascertain, study, ~~((and/or))~~ and analyze all available facts and matters relating or pertaining to sources of revenue, appropriations, expenditures, and financial condition of the motor vehicle fund and accounts thereof, the highway safety fund, and all other funds or accounts related to transportation programs of the state.

The joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives shall coordinate their activities with the ~~((legislative))~~ transportation committees of the legislature in carrying out the committees' powers and duties under chapter 43.88 RCW in matters relating to the transportation programs of the state.

**Sec. 115.** RCW 46.01.320 and 1996 c 315 s 2 are each amended to read as follows:

The title and registration advisory committee is created within the department. The committee consists of the director or a

designee, who shall serve as chair, the assistant director for vehicle services, the administrator of title and registration services, two members from each of the house and senate transportation committees, two county auditors nominated by the Washington association of county officials, and two representatives of subagents nominated by an association of vehicle subagents. The committee shall meet at least twice a year, and may meet as often as is necessary.

The committee's purpose is to foster communication between the legislature, the department, county auditors, and subagents. The committee shall make recommendations ~~((when requested by the legislative transportation committee, or on its own initiative,))~~ about revisions to fee structures, implications of fee revisions on cost sharing, and the development of standard contracts provided for in RCW 46.01.140(3).

**Sec. 116.** RCW 46.01.325 and 1996 c 315 s 3 are each amended to read as follows:

(1) The director shall prepare, with the advice of the title and registration advisory committee, an annual comprehensive analysis and evaluation of agent and subagent fees. The director shall make recommendations for agent and subagent fee revisions approved by the title and registration advisory committee to the ~~((legislative))~~ senate and house transportation committees by January 1st of every third year starting with 1996. Fee revision recommendations may be made more frequently when justified by the annual analysis and evaluation, and requested by the title and registration advisory committee.

(2) The annual comprehensive analysis and evaluation must consider, but is not limited to:

(a) Unique and significant financial, legislative, or other relevant developments that may impact fees;

(b) Current funding for ongoing operating and maintenance automation project costs affecting revenue collection and service delivery;

(c) Future system requirements including an appropriate sharing of costs between the department, agents, and subagents;

(d) Beneficial mix of customer service delivery options based on a fee structure commensurate with quality performance standards;

(e) Appropriate indices projecting state and national growth in business and economic conditions prepared by the United States department of commerce, the department of revenue, and the revenue forecast council for the state of Washington.

**Sec. 117.** RCW 46.16.705 and 2003 c 196 s 101 are each amended to read as follows:

(1) The special license plate review board is created.

(2) The board will consist of seven members: One member appointed by the governor and who will serve as chair of the board; four members of the legislature, one from each caucus of the house of representatives and the senate; a department of licensing representative appointed by the director; and a Washington state patrol representative appointed by the chief.

(3) Members shall serve terms of four years, except that four of the members initially appointed will be appointed for terms of two years. No member may be appointed for more than three consecutive terms.

(4) The ~~((legislative transportation committee))~~ respective appointing authority may remove members from the board before the expiration of their terms only for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office as ordered by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.

**Sec. 118.** RCW 46.16.715 and 2003 c 196 s 102 are each amended to read as follows:

(1) The board shall meet periodically at the call of the chair, but must meet at least one time each year within ninety days before an upcoming regular session of the legislature. The board may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members, and it must have a

quorum present to take a vote on a special license plate application.

(2) The board will be compensated from the general appropriation for the ~~((legislative transportation committee))~~ department of licensing in accordance with RCW 43.03.250. Each board member will be compensated in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) The department of licensing shall provide administrative support to the board, which must include at least the following:

(a) Provide general staffing to meet the administrative needs of the board;

(b) Report to the board on the reimbursement status of any new special license plate series for which the state had to pay the start-up costs;

(c) Process special license plate applications and confirm that the sponsoring organization has submitted all required documentation. If an incomplete application is received, the department must return it to the sponsoring organization;

(d) Compile the annual financial reports submitted by sponsoring organizations with active special license plate series and present those reports to the board for review and approval.

~~((5) The legislative transportation committee shall provide general oversight of the board, which must include at least the following:~~

~~(a) Process and approve board member compensation requests;~~

~~(b) Review the annual financial reports submitted to the board by sponsoring organizations;~~

~~(c) Review annually the list of the board's approved and rejected special license plate proposals submitted by sponsoring organizations;))~~

**Sec. 119.** RCW 46.16.725 and 2003 c 196 s 103 are each amended to read as follows:

(1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the ~~((legislative))~~ senate and house transportation committees;

(b) Report annually to the ~~((legislative))~~ senate and house transportation committees on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees.

**Sec. 120.** RCW 46.73.010 and 1985 c 333 s 1 are each amended to read as follows:

The Washington state patrol may adopt rules establishing standards for qualifications and hours of service of drivers for private carriers as defined by RCW 81.80.010(6). Such standards

shall correlate with and, as far as reasonable, conform to the regulations contained in Title 49 C.F.R., Chapter 3, Subchapter B, Parts 391 and 395, on July 28, 1985. ~~((At least thirty days before filing notice of the proposed rules with the code reviser, the state patrol shall submit them to the legislative transportation committee for review.))~~

**Sec. 121.** RCW 47.01.280 and 1999 c 94 s 10 are each amended to read as follows:

(1) Upon receiving an application for improvements to an existing state highway or highways pursuant to RCW 43.160.074 from the community economic revitalization board, the transportation commission shall, in a timely manner, determine whether or not the proposed state highway improvements:

(a) Meet the safety and design criteria of the department of transportation;

(b) Will impair the operational integrity of the existing highway system;

(c) Will affect any other improvements planned by the department; and

(d) Will be consistent with its policies developed pursuant to RCW 47.01.071.

(2) Upon completion of its determination of the factors contained in subsection (1) of this section and any other factors it deems pertinent, the transportation commission shall forward its approval, as submitted or amended or disapproval of the proposed improvements to the board, along with any recommendation it may wish to make concerning the desirability and feasibility of the proposed development. If the transportation commission disapproves any proposed improvements, it shall specify its reasons for disapproval.

(3) Upon notification from the board of an application's approval pursuant to RCW 43.160.074, the transportation commission shall direct the department of transportation to carry out the improvements in coordination with the applicant.

~~((4) The transportation commission shall notify the legislative transportation committee of all state highway improvements to be carried out pursuant to RCW 43.160.074 and this section.))~~

**Sec. 122.** RCW 47.04.210 and 2001 2nd sp.s. c 14 s 601 are each amended to read as follows:

Federal funds that are administered by the department of transportation and are passed through to municipal corporations or political subdivisions of the state and moneys that are received as total reimbursement for goods, services, or projects constructed by the department of transportation are removed from the transportation budget. To process and account for these expenditures a new treasury trust account is created to be used for all department of transportation one hundred percent federal and local reimbursable transportation expenditures. This new account is nonbudgeted and nonappropriated. At the same time, federal and private local appropriations and full-time equivalents in subprograms R2, R3, T6, Y6, and Z2 processed through this new account are removed from the department of transportation's 1997-99 budget.

The department of transportation may make expenditures from the account before receiving federal and local reimbursements. However, at the end of each biennium, the account must maintain a zero or positive cash balance. In the twenty-fourth month of each biennium the department of transportation shall calculate and transfer sufficient cash from either the motor vehicle fund or the multimodal transportation account to cover any negative cash balances. The amount transferred is calculated based on expenditures from each fund. In addition, any interest charges accruing to the new account must be distributed to the motor vehicle fund and the multimodal transportation account.

The department of transportation shall provide an annual report to the ~~((legislative))~~ senate and house transportation committees and the office of financial management on expenditures and full-time equivalents processed through the new account. The report must also include recommendations for process changes, if needed.

**Sec. 123.** RCW 47.04.220 and 2001 2nd sp.s. c 14 s 602 are each amended to read as follows:

(1) The miscellaneous transportation programs account is created in the custody of the state treasurer.

(2) Moneys from the account may be used only for the costs of:

(a) Miscellaneous transportation services provided by the department that are reimbursed by other public and private entities;

(b) Local transportation projects for which the department is a conduit for federal reimbursement to a municipal corporation or political subdivision; or

(c) Other reimbursable activities as recommended by the ~~((legislative))~~ senate and house transportation committees and approved by the office of financial management.

(3) Moneys received as reimbursement for expenditures under subsection (2) of this section must be deposited into the account.

(4) No appropriation is required for expenditures from this account. This fund is not subject to allotment procedures provided under chapter 43.88 RCW.

(5) Only the secretary of transportation or the secretary's designee may authorize expenditures from the account.

(6) It is the intent of the legislature that this account maintain a zero or positive cash balance at the end of each biennium. Toward this purpose the department may make expenditures from the account before receiving reimbursements under subsection (2) of this section. Before the end of the biennium, the department shall transfer sufficient cash to cover any negative cash balances from the motor vehicle fund and the multimodal transportation account to the miscellaneous transportation programs account for unrecovered reimbursements. The department shall calculate the distribution of this transfer based on expenditures. In the ensuing biennium the department shall transfer the reimbursements received in the miscellaneous transportation programs account back to the motor vehicle fund and the multimodal transportation account to the extent of the cash transferred at biennium end. The department shall also distribute any interest charges accruing to the miscellaneous transportation programs account to the motor vehicle fund and the multimodal transportation account. Adjustments for any indirect cost recoveries may also be made at this time.

(7) The department shall provide an annual report to the ~~((legislative))~~ senate and house transportation committees and the office of financial management on the expenditures and full-time equivalents processed through the miscellaneous transportation programs account. The report must also include recommendations for changes to the process, if needed.

**Sec. 124.** RCW 47.06.110 and 1996 c 186 s 512 are each amended to read as follows:

The state-interest component of the statewide multimodal transportation plan shall include a state public transportation plan that:

(1) Articulates the state vision of an interest in public transportation and provides quantifiable objectives, including benefits indicators;

(2) Identifies the goals for public transit and the roles of federal, state, regional, and local entities in achieving those goals;

(3) Recommends mechanisms for coordinating state, regional, and local planning for public transportation;

(4) Recommends mechanisms for coordinating public transportation with other transportation services and modes;

(5) Recommends criteria, consistent with the goals identified in subsection (2) of this section and with RCW 82.44.180 (2) and (3), for existing federal authorizations administered by the department to transit agencies; and

(6) Recommends a statewide public transportation facilities and equipment management system as required by federal law.

In developing the state public transportation plan, the department shall involve local jurisdictions, public and private providers of transportation services, nonmotorized interests, and state agencies with an interest in public transportation, including but not limited to the departments of community, trade, and economic development, social and health services, and ecology,

the office of the superintendent of public instruction, the office of the governor, and the office of financial management.

The department shall submit ~~((an initial report))~~ ~~((legislative))~~ senate and house transportation committees by December ~~((1, 1993, and shall provide annual))~~ 1st of each year, reports summarizing the plan's progress ~~((each year thereafter)).~~

**Sec. 125.** RCW 47.06A.020 and 1999 c 216 s 1 are each amended to read as follows:

(1) The board shall:

(a) Adopt rules and procedures necessary to implement the freight mobility strategic investment program;

(b) Solicit from public entities proposed projects that meet eligibility criteria established in accordance with subsection (4) of this section; and

(c) Review and evaluate project applications based on criteria established under this section, and prioritize and select projects comprising a portfolio to be funded in part with grants from state funds appropriated for the freight mobility strategic investment program. In determining the appropriate level of state funding for a project, the board shall ensure that state funds are allocated to leverage the greatest amount of partnership funding possible. After selecting projects comprising the portfolio, the board shall submit them as part of its budget request to the office of financial management and the legislature. The board shall ensure that projects submitted as part of the portfolio are not more appropriately funded with other federal, state, or local government funding mechanisms or programs. The board shall reject those projects that appear to improve overall general mobility with limited enhancement for freight mobility.

The board shall provide periodic progress reports on its activities to the office of financial management and the ~~((legislative))~~ senate and house transportation committees.

(2) The board may:

(a) Accept from any state or federal agency, loans or grants for the financing of any transportation project and enter into agreements with any such agency concerning the loans or grants;

(b) Provide technical assistance to project applicants;

(c) Accept any gifts, grants, or loans of funds, property, or financial, or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(d) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter; and

(e) Do all things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

(3) The board shall designate strategic freight corridors within the state. The board shall update the list of designated strategic corridors not less than every two years, and shall establish a method of collecting and verifying data, including information on city and county-owned roadways.

~~((From June 11, 1998, through the biennium ending June 30, 2001,))~~ The board shall utilize threshold project eligibility criteria that, at a minimum, includes the following:

(a) The project must be on a strategic freight corridor;

(b) The project must meet one of the following conditions:

(i) It is primarily aimed at reducing identified barriers to freight movement with only incidental benefits to general or personal mobility; or

(ii) It is primarily aimed at increasing capacity for the movement of freight with only incidental benefits to general or personal mobility; or

(iii) It is primarily aimed at mitigating the impact on communities of increasing freight movement, including roadway/railway conflicts; and

(c) The project must have a total public benefit/total public cost ratio of equal to or greater than one.

(5) From June 11, 1998, through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed by the freight mobility project prioritization committee and contained in the January 16, 1998, report entitled "Project Eligibility, Priority and Selection

Process for a Strategic Freight Investment Program." The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. After June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the freight mobility project prioritization committee as expertise and experience is gained in administering the freight mobility program.

(6) It is the intent of the legislature that each freight mobility project contained in the project portfolio submitted by the board utilize the greatest amount of nonstate funding possible. The board shall adopt rules that give preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, but shall also ensure that there are provisions allowing exceptions for projects that are located in areas where minimal local funding capacity exists or where the magnitude of the project makes the adopted partnership contribution financially unfeasible.

(7) The board shall develop and recommend policies that address operational improvements that primarily benefit and enhance freight movement, including, but not limited to, policies that reduce congestion in truck lanes at border crossings and weigh stations and provide for access to ports during nonpeak hours.

**Sec. 126.** RCW 47.10.790 and 1985 c 406 s 1 are each amended to read as follows:

(1) In order to provide funds for the location, design, right of way, and construction of selected interstate highway improvements, there shall be issued and sold upon the request of the Washington state transportation commission, a total of one hundred million dollars of general obligation bonds of the state of Washington to pay the state's share of costs for completion of state route 90 (state route 5 to state route 405) and other related state highway projects eligible for regular federal interstate funding and until December 31, 1989, to temporarily pay the regular federal share of construction of completion projects on state route 90 (state route 5 to state route 405) and other related state highway projects eligible for regular interstate funding in advance of federal-aid apportionments under the provisions of 23 U.S.C. Secs. 115 or 122: PROVIDED, That the total amount of bonds issued to temporarily pay the regular federal share of construction of federal-aid interstate highways in advance of federal-aid apportionments as authorized by this section and RCW 47.10.801 shall not exceed one hundred twenty million dollars: PROVIDED FURTHER, That the transportation commission shall (~~consult with the legislative transportation committee prior to the adoption of~~) adopt plans for the obligation of federal-aid apportionments received in federal fiscal year 1985 and subsequent years to pay the regular federal share of federal-aid interstate highway construction projects or to convert such apportionments under the provisions of 23 U.S.C. Secs. 115 or 122.

(2) The transportation commission(~~in consultation with the legislative transportation committee~~) may at any time find and determine that any amount of the bonds authorized in subsection (1) of this section, and not then sold, are no longer required to be issued and sold for the purposes described in subsection (1) of this section.

(3) Any bonds authorized by subsection (1) of this section that the transportation commission determines are no longer required for the purpose of paying the cost of the designated interstate highway improvements described therein shall be issued and sold, upon the request of the Washington state transportation commission, to provide funds for the location, design, right of way, and construction of major transportation improvements throughout the state (~~that are identified as category C improvements in RCW 47.05.030~~).

**Sec. 127.** RCW 47.10.801 and 1999 c 94 s 13 are each amended to read as follows:

(1) In order to provide funds necessary for the location, design, right of way, and construction of selected interstate and other state highway improvements, there shall be issued and sold, subject to subsections (2), (3), and (4) of this section, upon the request of the Washington state transportation commission a total of four hundred sixty million dollars of general obligation bonds of the state of Washington for the following purposes and specified sums:

(a) Not to exceed two hundred twenty-five million dollars to pay the state's share of costs for federal-aid interstate highway improvements and until December 31, 1989, to temporarily pay the regular federal share of construction of federal-aid interstate highway improvements to complete state routes 82, 90, 182, and 705 in advance of federal-aid apportionments under the provisions of 23 U.S.C. Secs. 115 or 122: PROVIDED, That the total amount of bonds issued to temporarily pay the regular federal share of construction of federal-aid interstate highways in advance of federal-aid apportionments as authorized by this section and RCW 47.10.790 shall not exceed one hundred twenty million dollars: PROVIDED FURTHER, That the transportation commission shall (~~consult with the legislative transportation committee prior to the adoption of~~) adopt plans for the obligation of federal-aid apportionments received in federal fiscal year 1985 and subsequent years to pay the regular federal share of federal-aid interstate highway construction projects or to convert such apportionments under the provisions of 23 U.S.C. Secs. 115 or 122;

(b) Two hundred twenty-five million dollars for major transportation improvements throughout the state that are identified as category C improvements and for selected major non-interstate construction and reconstruction projects that are included as Category A Improvements (~~in RCW 47.05.030~~);

(c) Ten million dollars for state highway improvements necessitated by planned economic development, as determined through the procedures set forth in RCW 43.160.074 and 47.01.280.

(2) The amount of bonds authorized in subsection (1)(a) of this section shall be reduced if the transportation commission(~~in consultation with the legislative transportation committee~~) determines that any of the bonds that have not been sold are no longer required.

(3) The amount of bonds authorized in subsection (1)(b) of this section shall be increased by an amount not to exceed, and concurrent with, any reduction of bonds authorized under subsection (1)(a) of this section in the manner prescribed in subsection (2) of this section.

(4) The transportation commission may decrease the amount of bonds authorized in subsection (1)(c) of this section and increase the amount of bonds authorized in subsection (1)(a) or (b) of this section, or both by an amount equal to the decrease in subsection (1)(c) of this section. The transportation commission may decrease the amount of bonds authorized in subsection (1)(c) of this section only if the legislature appropriates an equal amount of funds from the motor vehicle fund - basic account for the purposes enumerated in subsection (1)(c) of this section.

**Sec. 128.** RCW 47.10.802 and 1986 c 290 s 1 are each amended to read as follows:

Upon request being made by the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.801 in accordance with chapter 39.42 RCW. The amount of such bonds issued and sold under RCW 47.10.801 through 47.10.809 in any biennium may not exceed the amount of a specific appropriation therefor. Such bonds may be sold from time to time in such amounts as may be necessary for the orderly progress of the state highway improvements specified in RCW 47.10.801. The amount of bonds issued and sold under RCW 47.10.801(1)(a) in any biennium shall not, except as provided in that section, exceed the amount required to match federal-aid interstate funds available to the state of Washington. (~~The~~

~~transportation commission shall give notice of its intent to sell bonds to the legislative transportation committee before requesting the state finance committee to issue and sell bonds authorized by RCW 47.10.801(1)(a).)~~ The bonds shall be sold in such manner, at such time or times, in such amounts, and at such price or prices as the state finance committee shall determine. The state finance committee may obtain insurance, letters of credit, or other credit facility devices with respect to the bonds and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of the bonds. Promissory notes or other obligations issued under this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the promissory notes or other obligations relate. The state finance committee may authorize the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purposes of retiring the bonds during the life of the project for which they were issued.

**Sec. 129.** RCW 47.17.850 and 1984 c 7 s 139 are each amended to read as follows:

A state highway to be known as state route number 906 is established as follows:

Beginning at a junction with state route number 90 at the West Summit interchange of Snoqualmie Pass, thence along the alignment of the state route number 90 as it existed on May 11, 1967, in a southeasterly direction to a junction with state route number 90 at the Hyak interchange.

~~((The legislative transportation committee, the house and senate transportation committees, and the department shall undertake appropriate studies to evaluate state route number 906 to determine whether or not it should permanently remain on the state system.))~~

**Sec. 130.** RCW 47.26.167 and 1991 c 342 s 62 are each amended to read as follows:

The legislature recognizes the need for a multijurisdictional body to review future requests for jurisdictional transfers. The board is hereby directed, beginning September 1, 1991, to receive petitions from cities, counties, or the state requesting any addition or deletion from the state highway system. The board is required to utilize the criteria established in RCW 47.17.001 in evaluating petitions and to adopt rules for implementation of this process. The board shall forward to the ~~((legislative)) senate and house transportation committees~~ by November 15 each year any recommended jurisdictional transfers.

**Sec. 131.** RCW 47.26.170 and 1994 c 179 s 16 are each amended to read as follows:

Each county having within its boundaries an urban area and cities and towns shall prepare and submit to the transportation improvement board arterial inventory data required to determine the long-range arterial construction needs. The counties, cities, and towns shall revise the arterial inventory data every four years to show the current arterial construction needs through the advanced planning period, and as revised shall submit them to the transportation improvement board during the first week of January every four years beginning in 1996. The inventory data shall be prepared pursuant to guidelines established by the transportation improvement board. As information is updated, it shall be made available to the commission ~~((and the legislative transportation committee))~~.

**Sec. 132.** RCW 47.46.030 and 2002 c 114 s 3 are each amended to read as follows:

(1) The secretary or a designee shall solicit proposals from, and negotiate and enter into agreements with, private entities to undertake as appropriate, together with the department and other public entities, all or a portion of the study, planning, design, construction, operation, and maintenance of transportation systems and facilities, using in whole or in part public or private sources of financing.

The public-private initiatives program may develop up to six demonstration projects. Each proposal shall be weighed on its own merits, and each of the six agreements shall be negotiated individually, and as a stand-alone project.

(2) If project proposals selected prior to September 1, 1994, are terminated by the public or private sectors, the department shall not select any new projects, including project proposals submitted to the department prior to September 1, 1994, and designated by the transportation commission as placeholder projects, after June 16, 1995, until June 30, 1997.

The department, in consultation with the legislative transportation committee, shall conduct a program and fiscal audit of the public-private initiatives program for the biennium ending June 30, 1997. The department shall submit a progress report to the legislative transportation committee on the program and fiscal audit by June 30, 1996, with preliminary and final audit reports due December 1, 1996, and June 30, 1997, respectively.

The department shall develop and submit a proposed public involvement plan to the 1997 legislature to identify the process for selecting new potential projects and the associated costs of implementing the plan. The legislature must adopt the public involvement plan before the department may proceed with any activity related to project identification and selection. Following legislative adoption of the public involvement plan, the department is authorized to implement the plan and to identify potential new projects.

The public involvement plan for projects selected after June 30, 1997, shall, at a minimum, identify projects that: (a) Have the potential of achieving overall public support among users of the projects, residents of communities in the vicinity of the projects, and residents of communities impacted by the projects; (b) meet a state transportation need; (c) provide a significant state benefit; and (d) provide competition among proposers and maximum cost benefits to users. Prospective projects may include projects identified by the department or submitted by the private sector.

Projects that meet the minimum criteria established under this section and the requirements of the public involvement plan developed by the department and approved by the legislature shall be submitted to the Washington state transportation commission for its review. ~~((The commission, in turn, shall submit a list of eligible projects to the legislative transportation committee for its consideration.))~~ Forty-five days after the submission to the ~~((legislative transportation committee))~~ commission of the list of eligible projects, the secretary is authorized to solicit proposals for the eligible project.

(3) Prior to entering into agreements with private entities under the requirements of RCW 47.46.040 for any project proposal selected before September 1, 1994, or after June 30, 1997, except as provided for in subsections ~~((12))~~ (11) and ~~((13))~~ (12) of this section, the department shall require an advisory vote as provided under subsections (5) through ~~((10))~~ (9) of this section.

(4) The advisory vote shall apply to project proposals selected prior to September 1, 1994, or after June 30, 1997, that receive public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project collected and submitted in accordance with the dates established in subsections ~~((12))~~ (11) and ~~((13))~~ (12) of this section. The advisory vote shall be on the preferred alternative identified under the requirements of chapter 43.21C RCW and, if applicable, the national environmental policy act, 42 U.S.C. 4321 et seq. The execution by the department of the advisory vote process established in this section is subject to the prior appropriation of funds by the legislature for the purpose of conducting environmental impact studies, a public involvement program, local involvement committee activities, traffic and economic impact analyses, engineering and technical studies, and the advisory vote.

(5) In preparing for the advisory vote, the department shall conduct a comprehensive analysis of traffic patterns and economic impact to define the geographical boundary of the project area that is affected by the imposition of tolls or user fees authorized under

this chapter. The area so defined is referred to in this section as the affected project area. In defining the affected project area, the department shall, at a minimum, undertake: (a) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that could be subject to tolls or user fees; (b) an analysis of the anticipated traffic diversion patterns; (c) an analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial traffic, and commercial entities in communities in the vicinity of and impacted by the project; (d) an analysis of the economic impact of tolls or user fees on the price of goods and services generally; and (e) an analysis of the relationship of the project to state transportation needs and benefits.

(6)(a) After determining the definition of the affected project area, the department shall establish a committee comprised of individuals who represent cities and counties in the affected project area; organizations formed to support or oppose the project; and users of the project. The committee shall be named the public-private local involvement committee, and be known as the local involvement committee.

(b) The members of the local involvement committee shall be: (i) An elected official from each city within the affected project area; (ii) an elected official from each county within the affected project area; (iii) two persons from each county within the affected project area who represent an organization formed in support of the project, if the organization exists; (iv) two persons from each county within the affected project area who represent an organization formed to oppose the project, if the organization exists; and (v) four public members active in a statewide transportation organization. If the committee makeup results in an even number of committee members, there shall be an additional appointment of an elected official from the county in which all, or the greatest portion of the project is located.

(c) City and county elected officials shall be appointed by a majority of the members of the city or county legislative authorities of each city or county within the affected project area, respectively. The county legislative authority of each county within the affected project area shall identify and validate organizations officially formed in support of or in opposition to the project and shall make the appointments required under this section from a list submitted by the chair of the organizations. Public members shall be appointed by the governor. All appointments to the local involvement committee shall be made and submitted to the department of transportation no later than January 1, 1996, for projects selected prior to September 1, 1994, and no later than thirty days after the affected project area is defined for projects selected after June 30, 1997. Vacancies in the membership of the local involvement committee shall be filled by the appointing authority under (b)(i) through (v) of this subsection for each position on the committee.

(d) The local involvement committee shall serve in an advisory capacity to the department on all matters related to the execution of the advisory vote.

(e) Members of the local involvement committee serve without compensation and may not receive subsistence, lodging expenses, or travel expenses.

(7) The department shall conduct a minimum thirty-day public comment period on the definition of the geographical boundary of the project area. The department, in consultation with the local involvement committee, shall make adjustments, if required, to the definition of the geographical boundary of the affected project area, based on comments received from the public. Within fourteen calendar days after the public comment period, the department shall set the boundaries of the affected project area in units no smaller than a precinct as defined in RCW ~~((29-01-120))~~ 29A.04.121.

(8) The department, in consultation with the local involvement committee, shall develop a description for selected project proposals. After developing the description of the project

proposal, the department shall publish the project proposal description in newspapers of general circulation for seven calendar days in the affected project area. Within fourteen calendar days after the last day of the publication of the project proposal description, the department shall transmit a copy of the map depicting the affected project area and the description of the project proposal to the county auditor of the county in which any portion of the affected project area is located.

~~((9))~~ ~~((The department shall provide the legislative transportation committee with progress reports on the status of the definition of the affected project area and the description of the project proposal.~~

~~((10))~~ Upon receipt of the map and the description of the project proposal, the county auditor shall, within thirty days, verify the precincts that are located within the affected project area. The county auditor shall prepare the text identifying and describing the affected project area and the project proposal using the definition of the geographical boundary of the affected project area and the project description submitted by the department and shall set an election date for the submission of a ballot proposition authorizing the imposition of tolls or user fees to implement the proposed project within the affected project area, which date may be the next succeeding general election to be held in the state, or at a special election, if requested by the department. The text of the project proposal must appear in a voter's pamphlet for the affected project area. The department shall pay the costs of publication and distribution. The special election date must be the next date for a special election provided under RCW ~~((29-13-020))~~ 29A.04.330 that is at least sixty days but, if authorized under RCW ~~((29-13-020))~~ 29A.04.330, no more than ninety days after the receipt of the final map and project description by the auditor. The department shall pay the cost of an election held under this section.

~~((11))~~ ~~((10))~~ Notwithstanding any other provision of law, the department may contract with a private developer of a selected project proposal to conduct environmental impact studies, a public involvement program, and engineering and technical studies funded by the legislature. For projects subject to this subsection, the department shall not enter into an agreement under RCW 47.46.040 prior to the advisory vote on the preferred alternative.

~~((12))~~ ~~((11))~~ Subsections (5) through ~~((10))~~ (9) of this section shall not apply to project proposals selected prior to September 1, 1994, that have no organized public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project, collected and submitted after September 1, 1994, and by thirty calendar days after June 16, 1995.

~~((13))~~ ~~((12))~~ Subsections (5) through ~~((10))~~ (9) of this section shall not apply to project proposals selected after June 30, 1997, that have no organized public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project, collected and submitted by ninety calendar days after project selection.

**Sec. 133.** RCW 47.46.040 and 2002 c 114 s 16 are each amended to read as follows:

(1) The secretary or a designee shall consult with legal, financial, and other experts within and outside state government in the negotiation and development of the agreements.

(2) Agreements may provide for private ownership of the projects during the construction period. After completion and final acceptance of each project or discrete segment thereof, the agreement may provide for state ownership of the transportation systems and facilities and lease to the private entity unless the state elects to provide for ownership of the facility by the private entity during the term of the agreement.

The state may lease each of the demonstration projects, or applicable project segments, to the private entities for operating purposes for up to fifty years.

(3) The department may exercise any power possessed by it to facilitate the development, construction, financing operation, and maintenance of transportation projects under this section.

Agreements for maintenance services entered into under this section shall provide for full reimbursement for services rendered by the department or other state agencies. Agreements for police services for projects, involving state highway routes, developed under agreements shall be entered into with the Washington state patrol. The agreement for police services shall provide that the state patrol will be reimbursed for costs on a comparable basis with the costs incurred for comparable service on other state highway routes. The department may provide services for which it is reimbursed, including but not limited to preliminary planning, environmental certification, and preliminary design of the demonstration projects.

(4) The plans and specifications for each project constructed under this section shall comply with the department's standards for state projects. A facility constructed by and leased to a private entity is deemed to be a part of the state highway system for purposes of identification, maintenance, and enforcement of traffic laws and for the purposes of applicable sections of this title. Upon reversion of the facility to the state, the project must meet all applicable state standards. Agreements shall address responsibility for reconstruction or renovations that are required in order for a facility to meet all applicable state standards upon reversion of the facility to the state.

(5) For the purpose of facilitating these projects and to assist the private entity in the financing, development, construction, and operation of the transportation systems and facilities, the agreements may include provisions for the department to exercise its authority, including the lease of facilities, rights of way, and airspace, exercise of the power of eminent domain, granting of development rights and opportunities, granting of necessary easements and rights of access, issuance of permits and other authorizations, protection from competition, remedies in the event of default of either of the parties, granting of contractual and real property rights, liability during construction and the term of the lease, authority to negotiate acquisition of rights of way in excess of appraised value, and any other provision deemed necessary by the secretary.

(6) The agreements entered into under this section may include provisions authorizing the state to grant necessary easements and lease to a private entity existing rights of way or rights of way subsequently acquired with public or private financing. The agreements may also include provisions to lease to the entity airspace above or below the right of way associated or to be associated with the private entity's transportation facility. In consideration for the reversion rights in these privately constructed facilities, the department may negotiate a charge for the lease of airspace rights during the term of the agreement for a period not to exceed fifty years. If, after the expiration of this period, the department continues to lease these airspace rights to the private entity, it shall do so only at fair market value. The agreement may also provide the private entity the right of first refusal to undertake projects utilizing airspace owned by the state in the vicinity of the public-private project.

(7) Agreements under this section may include any contractual provision that is necessary to protect the project revenues required to repay the costs incurred to study, plan, design, finance, acquire, build, install, operate, enforce laws, and maintain toll highways, bridges, and tunnels and which will not unreasonably inhibit or prohibit the development of additional public transportation systems and facilities. Agreements under this section must secure and maintain liability insurance coverage in amounts appropriate to protect the project's viability and may address state indemnification of the private entity for design and construction liability where the state has approved relevant design and construction plans.

(8) Agreements entered into under this section shall include a process that provides for public involvement in decision making with respect to the development of the projects.

(9)(a) In carrying out the public involvement process required in subsection (8) of this section, the private entity shall proactively seek public participation through a process appropriate to the characteristics of the project that assesses and demonstrates

public support among: Users of the project, residents of communities in the vicinity of the project, and residents of communities impacted by the project.

(b) The private entity shall conduct a comprehensive public involvement process that provides, periodically throughout the development and implementation of the project, users and residents of communities in the affected project area an opportunity to comment upon key issues regarding the project including, but not limited to: (i) Alternative sizes and scopes; (ii) design; (iii) environmental assessment; (iv) right of way and access plans; (v) traffic impacts; (vi) tolling or user fee strategies and tolling or user fee ranges; (vii) project cost; (viii) construction impacts; (ix) facility operation; and (x) any other salient characteristics.

(c) If the affected project area has not been defined, the private entity shall define the affected project area by conducting, at a minimum: (i) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that could be subject to tolls or user fees; (ii) an analysis of the anticipated traffic diversion patterns; (iii) an analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial traffic, and commercial entities in communities in the vicinity of and impacted by the project; (iv) an analysis of the economic impact of tolls or user fees on the price of goods and services generally; and (v) an analysis of the relationship of the project to state transportation needs and benefits.

The agreement may require an advisory vote by users of and residents in the affected project area.

(d) In seeking public participation, the private entity shall establish a local involvement committee or committees comprised of residents of the affected project area, individuals who represent cities and counties in the affected project area, organizations formed to support or oppose the project, if such organizations exist, and users of the project. The private entity shall, at a minimum, establish a committee as required under the specifications of RCW 47.46.030(6)(b) (ii) and (iii) and appointments to such committee shall be made no later than thirty days after the project area is defined.

(e) Local involvement committees shall act in an advisory capacity to the department and the private entity on all issues related to the development and implementation of the public involvement process established under this section.

(f) The department and the private entity shall provide the ~~((legislative transportation committee and))~~ local involvement committees with progress reports on the status of the public involvement process including the results of an advisory vote, if any occurs.

(10) Nothing in this chapter limits the right of the secretary and his or her agents to render such advice and to make such recommendations as they deem to be in the best interests of the state and the public.

**Sec. 134.** RCW 79A.05.125 and 1999 c 301 s 3 are each amended to read as follows:

(1) The department of transportation shall negotiate a franchise with a rail carrier to establish and maintain a rail line over portions of the Milwaukee Road corridor owned by the state between Ellensburg and Lind. The department of transportation may negotiate such a franchise with any qualified rail carrier. Criteria for negotiating the franchise and establishing the right of way include:

(a) Assurances that resources from the franchise will be sufficient to compensate the state for use of the property, including completion of a cross-state trail between Easton and the Idaho border;

(b) Types of payment for use of the franchise, including payment for the use of federally granted trust lands in the transportation corridor;

(c) Standards for maintenance of the line;

(d) Provisions ensuring that both the conventional and intermodal rail service needs of local shippers are met. Such accommodations may comprise agreements with the franchisee to offer or maintain adequate service or to provide service by other carriers at commercially reasonable rates;

(e) Provisions requiring the franchisee, upon reasonable request of any other rail operator, to provide rail service and interchange freight over what is commonly known as the Stampede Pass rail line from Cle Elum to Auburn at commercially reasonable rates;

(f) If any part of the franchise agreement is invalidated by actions or rulings of the federal surface transportation board or a court of competent jurisdiction, the remaining portions of the franchise agreement are not affected;

(g) Compliance with environmental standards; and

(h) Provisions for insurance and the coverage of liability.

(2) The franchise may provide for periodic review of financial arrangements under the franchise.

(3) The department of transportation, in consultation with the parks and recreation commission and the ~~((legislative)) senate and house~~ transportation committees, shall negotiate the terms of the franchise, and shall present the agreement to the parks and recreation commission for approval of as to terms and provisions affecting the cross-state trail or affecting the commission.

(4) This section expires July 1, 2006, if the department of transportation does not enter into a franchise agreement for a rail line over portions of the Milwaukee Road corridor by July 1, 2006.

**Sec. 135.** RCW 81.80.395 and 1988 c 138 s 1 are each amended to read as follows:

The Washington utilities and transportation commission may enter into an agreement or arrangement with a duly authorized representative of the state of Idaho, for the purpose of granting to operators of commercial vehicles that are properly registered in the state of Idaho, the privilege of operating their vehicles in this state within a designated area near the border of their state without the need for registration as required by chapter 81.80 RCW if the state of Idaho grants a similar privilege to operators of commercial vehicles from this state. The initial designated area shall be limited to state route 195 from the Idaho border to Lewiston, and SR 12 from Lewiston to Clarkston. ~~((The utilities and transportation commission shall submit other proposed reciprocal agreements in designated border areas to the legislative transportation committee for approval.))~~

**Sec. 136.** RCW 81.104.110 and 1998 c 245 s 165 are each amended to read as follows:

The legislature recognizes that the planning processes described in RCW 81.104.100 provide a recognized framework for guiding high capacity transportation studies. However, the process cannot guarantee appropriate decisions unless key study assumptions are reasonable.

To assure appropriate system plan assumptions and to provide for review of system plan results, an expert review panel shall be appointed to provide independent technical review for development of any system plan which is to be funded in whole or in part by the imposition of any voter-approved local option funding sources enumerated in RCW 81.104.140.

(1) The expert review panel shall consist of five to ten members who are recognized experts in relevant fields, such as transit operations, planning, emerging transportation technologies, engineering, finance, law, the environment, geography, economics, and political science.

(2) The expert review panel shall be selected cooperatively by the chairs of the ~~((legislative)) senate and house~~ transportation committees, the secretary of the department of transportation, and the governor to assure a balance of disciplines. In the case of counties adjoining another state or Canadian province the expert review panel membership shall be selected cooperatively with representatives of the adjoining state or Canadian province.

(3) The chair of the expert review panel shall be designated by the appointing authorities.

(4) The expert review panel shall serve without compensation but shall be reimbursed for expenses according to ~~((chapter~~

~~43.03))~~ RCW 43.03.050 and 43.03.060. Reimbursement shall be paid from within the existing resources of the local authority planning under this chapter.

(5) The panel shall carry out the duties set forth in subsections (6) and (7) of this section until the date on which an election is held to consider the high capacity transportation system and financing plans. ~~((Funds appropriated for expenses of the expert panel shall be administered by the department of transportation.))~~

(6) The expert panel shall review all reports required in RCW 81.104.100(2) and shall concentrate on service modes and concepts, costs, patronage and financing evaluations.

(7) The expert panel shall provide timely reviews and comments on individual reports and study conclusions to the department of transportation, the regional transportation planning organization, the joint regional policy committee, and the submitting lead transit agency. In the case of counties adjoining another state or Canadian province, the expert review panel shall provide its reviews, comments, and conclusions to the representatives of the adjoining state or Canadian province.

(8) The ~~((legislative transportation committee))~~ local authority planning under this chapter shall contract for consulting services for expert review panels. The amount of consultant support shall be negotiated with each expert review panel by the ~~((legislative transportation committee))~~ local authority and shall be paid from ~~((appropriations for that purpose from the high capacity transportation account))~~ within the local authority's existing resources.

**Sec. 137.** RCW 82.33.020 and 1992 c 231 s 34 are each amended to read as follows:

(1) Four times each year the supervisor shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010:

- (a) An official state economic and revenue forecast;
- (b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and
- (c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(2) The supervisor shall submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.33.010, to the governor and the members of the committees on ways and means and the chairs of the committees on transportation of the senate and house of representatives ~~((and the chair of the legislative transportation committee))~~, including one copy to the staff of each of the committees, on or before November 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June 20th, and September 20th. All forecasts shall include both estimated receipts and estimated revenues in conformance with generally accepted accounting principles as provided by RCW 43.88.037.

(3) All agencies of state government shall provide to the supervisor immediate access to all information relating to economic and revenue forecasts. Revenue collection information shall be available to the supervisor the first business day following the conclusion of each collection period.

(4) The economic and revenue forecast supervisor and staff shall co-locate and share information, data, and files with the tax research section of the department of revenue but shall not duplicate the duties and functions of one another.

(5) As part of its forecasts under subsection (1) of this section, the supervisor shall provide estimated revenue from tuition fees as defined in RCW 28B.15.020.

**Sec. 138.** RCW 82.70.060 and 2003 c 364 s 6 are each amended to read as follows:

The commute trip reduction task force shall determine the effectiveness of the tax credit under RCW 82.70.020, the grant program in RCW 70.94.996, and the relative effectiveness of the tax credit and the grant program as part of its ongoing evaluation of the commute trip reduction law and report to the ~~((legislative))~~ senate and house transportation committees and to the fiscal committees of the house of representatives and the senate. The report must include information on the amount of tax credits claimed to date and recommendations on future funding between

the tax credit program and the grant program. The report must be incorporated into the recommendations required in RCW 70.94.537(5).

**Sec. 139.** RCW 82.80.070 and 2002 c 56 s 413 are each amended to read as follows:

(1) The proceeds collected pursuant to the exercise of the local option authority of RCW 82.80.010, ~~((82.80.020;))~~ 82.80.030, and 82.80.050 (hereafter called "local option transportation revenues") shall be used for transportation purposes only, including but not limited to the following: The operation and preservation of roads, streets, and other transportation improvements; new construction, reconstruction, and expansion of city streets, county roads, and state highways and other transportation improvements; development and implementation of public transportation and high-capacity transit improvements and programs; and planning, design, and acquisition of right of way and sites for such transportation purposes. The proceeds collected from excise taxes on the sale, distribution, or use of motor vehicle fuel and special fuel under RCW 82.80.010 shall be used exclusively for "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(2) The local option transportation revenues shall be expended for transportation uses consistent with the adopted transportation and land use plans of the jurisdiction expending the funds and consistent with any applicable and adopted regional transportation plan for metropolitan planning areas.

(3) Each local government with a population greater than eight thousand that levies or expends local option transportation funds, is also required to develop and adopt a specific transportation program that contains the following elements:

(a) The program shall identify the geographic boundaries of the entire area or areas within which local option transportation revenues will be levied and expended.

(b) The program shall be based on an adopted transportation plan for the geographic areas covered and shall identify the proposed operation and construction of transportation improvements and services in the designated plan area intended to be funded in whole or in part by local option transportation revenues and shall identify the annual costs applicable to the program.

(c) The program shall indicate how the local transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions.

(d) The program shall include at least a six-year funding plan, updated annually, identifying the specific public and private sources and amounts of revenue necessary to fund the program. The program shall include a proposed schedule for construction of projects and expenditure of revenues. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for transportation improvements in the program.

(4) Local governments with a population greater than eight thousand exercising the authority for local option transportation funds shall periodically review and update their transportation program to ensure that it is consistent with applicable local and regional transportation and land use plans and within the means of estimated public and private revenue available.

(5) In the case of expenditure for new or expanded transportation facilities, improvements, and services, priorities in the use of local option transportation revenues shall be identified in the transportation program and expenditures shall be made based upon the following criteria, which are stated in descending order of weight to be attributed:

(a) First, the project serves a multijurisdictional function;

(b) Second, it is necessitated by existing or reasonably foreseeable congestion;

(c) Third, it has the greatest person-carrying capacity;

(d) Fourth, it is partially funded by other government funds, such as from the state transportation improvement board, or by private sector contributions, such as those from the local transportation act, chapter 39.92 RCW; and

(e) Fifth, it meets such other criteria as the local government determines is appropriate.

(6) It is the intent of the legislature that as a condition of levying, receiving, and expending local option transportation revenues, no local government agency use the revenues to replace, divert, or loan any revenues currently being used for transportation purposes to nontransportation purposes. ~~((The association of Washington cities and the Washington state association of counties, in consultation with the legislative transportation committee, shall study the issue of nondiversion and make recommendations to the legislative transportation committee for language implementing the intent of this section by December 1, 1996.))~~

(7) Local governments are encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs required by this section for the purpose of accomplishing regional transportation planning and development.

(8) Local governments may use all or a part of the local option transportation revenues for the amortization of local government general obligation and revenue bonds issued for transportation purposes consistent with the requirements of this section.

(9) Subsections (1) through (8) of this section do not apply to a regional transportation investment district imposing a tax or fee under the local option authority of this chapter. Proceeds collected under the exercise of local option authority under this chapter by a district must be used in accordance with chapter 36.120 RCW.

**Sec. 140.** RCW 90.03.525 and 1996 c 285 s 1 and 1996 c 230 s 1617 are each reenacted and amended to read as follows:

(1) The rate charged by a local government utility to the department of transportation with respect to state highway right of way or any section of state highway right of way for the construction, operation, and maintenance of storm water control facilities under chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW, shall be thirty percent of the rate for comparable real property, except as otherwise provided in this section. The rate charged to the department with respect to state highway right of way or any section of state highway right of way within a local government utility's jurisdiction shall not, however, exceed the rate charged for comparable city street or county road right of way within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of storm water control facilities designed to control surface water or storm water runoff from state highway rights of way.

(2) Charges paid under subsection (1) of this section by the department of transportation must be used solely for storm water control facilities that directly reduce state highway runoff impacts or implementation of best management practices that will reduce the need for such facilities. By January 1st of each year, beginning with calendar year 1997, the local government utility, in coordination with the department, shall develop a plan for the expenditure of the charges for that calendar year. The plan must be consistent with the objectives identified in RCW 90.78.010. In addition, beginning with the submittal for 1998, the utility shall provide a progress report on the use of charges assessed for the prior year. No charges may be paid until the plan and report have been submitted to the department.

(3) The utility imposing the charge and the department of transportation may, however, agree to either higher or lower rates with respect to the construction, operation, or maintenance of any specific storm water control facilities based upon the annual plan prescribed in subsection (2) of this section. ~~((If a different rate is agreed to, a report so stating shall be submitted to the legislative transportation committee.))~~ If, after mediation, the local government utility and the department of transportation cannot agree upon the proper rate, ~~((and after a report has been submitted to the legislative transportation committee and after ninety days from submission of such report.))~~ either may commence an action in the superior court for the county in which the state highway

right of way is located to establish the proper rate. The court in establishing the proper rate shall take into account the extent and adequacy of storm water control facilities constructed by the department and the actual benefits to the sections of state highway rights of way from storm water control facilities constructed, operated, and maintained by the local government utility. Control of surface water runoff and storm water runoff from state highway rights of way shall be deemed an actual benefit to the state highway rights of way. The rate for sections of state highway right of way as determined by the court shall be set forth in terms of the percentage of the rate for comparable real property, but shall in no event exceed the rate charged for comparable city street or county road right of way within the same jurisdiction.

(4) The legislature finds that the federal clean water act (national (~~(pollution-pollutant))~~ pollutant discharge elimination system, 40 C.F.R. parts 122-124), the state water pollution control act, chapter 90.48 RCW, and the highway runoff program under chapter (~~(90-70))~~ 90.71 RCW, mandate the treatment and control of storm water runoff from state highway rights of way owned by the department of transportation. Appropriations made by the legislature to the department of transportation for the construction, operation, and maintenance of storm water control facilities are intended to address applicable federal and state mandates related to storm water control and treatment. This section is not intended to limit opportunities for sharing the costs of storm water improvements between cities, counties, and the state.

**NEW SECTION. Sec. 141.** The following acts or parts of acts are each repealed:

(1) RCW 44.40.010 (Creation--Composition--Appointments--Vacancies--Rules) and 1999 sp.s. c 1 s 616, 1980 c 87 s 39, 1971 ex.s. c 195 s 1, 1967 ex.s. c 145 s 68, 1965 ex.s. c 170 s 64, & 1963 ex.s. c 3 s 35;

(2) RCW 44.40.013 (Administration) and 2001 c 259 s 5;

(3) RCW 44.40.015 (Executive committee--Selection--Duties) and 2001 c 259 s 6 & 1999 sp.s. c 1 s 617;

(4) RCW 44.40.030 (Participation in activities of other organizations) and 1982 c 227 s 17, 1977 ex.s. c 235 s 7, 1971 ex.s. c 195 s 3, & 1963 ex.s. c 3 s 38;

(5) RCW 44.40.040 (Members' allowances--Procedure for payment of committee's expenses) and 2001 c 259 s 7, 1979 c 151 s 157, 1977 ex.s. c 235 s 8, 1975 1st ex.s. c 268 s 3, 1971 ex.s. c 195 s 4, & 1963 ex.s. c 3 s 39;

(6) RCW 44.40.090 (Delegation of powers and duties to senate and house transportation committees) and 2001 c 259 s 8, 1977 ex.s. c 235 s 10, & 1973 1st ex.s. c 210 s 2;

(7) RCW 44.40.140 (Review of policy on fees imposed on nonpolluting fuels--Report) and 1983 c 212 s 2;

(8) RCW 44.40.150 (Study--Recommendations for consideration--Staffing) and 1998 c 245 s 88 & 1989 1st ex.s. c 6 s 14;

(9) RCW 44.40.161 (Audit review of transportation-related agencies) and 2003 c 362 s 16;

(10) RCW 53.08.350 (Moratorium on runway construction or extension, or initiation of new service--Certain counties affected) and 1992 c 190 s 2;

(11) RCW 44.40.020 (Powers, duties, and studies) and 1996 c 129 s 9, 1977 ex.s. c 235 s 5, 1975 1st ex.s. c 268 s 1, & 1963 ex.s. c 3 s 36;

(12) RCW 44.40.070 (State transportation agencies--Comprehensive programs and financial plans) and 1998 c 245 s 87, 1988 c 167 s 10, 1979 ex.s. c 192 s 3, 1979 c 158 s 112, 1977 ex.s. c 235 s 9, & 1973 1st ex.s. c 201 s 1;

(13) RCW 44.40.080 (State transportation agencies--Recommended budget--Preparation and presentation--Contents) and 1973 1st ex.s. c 201 s 2;

(14) RCW 44.40.100 (Contracts and programs authorized) and 2001 c 259 s 9, 1977 ex.s. c 235 s 11, 1975 1st ex.s. c 268 s 7, & 1973 1st ex.s. c 210 s 3;

(15) RCW 46.23.040 (Review of agreement by legislative transportation committee) and 1982 c 212 s 4;

(16) RCW 47.01.145 (Study reports available to legislators upon request) and 1984 c 7 s 76, 1971 ex.s. c 195 s 6, & 1967 ex.s. c 145 s 78;

(17) RCW 47.05.090 (Application of 1993 c 490--Deviations) and 1993 c 490 s 6;

(18) RCW 47.12.360 (Advanced environmental mitigation--Reports) and 1997 c 140 s 5;

(19) RCW 47.76.340 (Evaluating program performance) and 1993 c 224 s 13 & 1990 c 43 s 8;

(20) RCW 47.74.010 (Multistate Highway Transportation Agreement enacted, terms) and 1983 c 82 s 1; and

(21) RCW 47.74.020 (Appointment of delegates to represent state) and 1983 c 82 s 2.

**NEW SECTION. Sec. 142.** Part headings used in this act are no part of the law.

**NEW SECTION. Sec. 143.** (1) RCW 44.40.120 is recodified as a section in chapter 44.04 RCW.

(2) RCW 44.40.025 is recodified as a section in chapter 43.88 RCW.

**NEW SECTION. Sec. 144.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005, except for section 103 of this act which takes effect July 1, 2006.

**NEW SECTION. Sec. 145.** Section 138 of this act expires July 1, 2013."

#### MOTION

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

On page 2, line 15, after "governor with the" insert "advice and"

On page 2, at the beginning of line 16, strike "and" and insert "but may serve no more than one year unless and until confirmed by the senate. The secretary"

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

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

Senator Esser demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment to the striking amendment by Senator Benton on page 2, line 15 to Senate Bill No. 5513.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment to the striking amendment by Senator Benton was not adopted by the following vote: Yeas, 19; Nays, 30; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Doumit, Esser, Hewitt, Honeyford, Johnson, Mulliken, Oke, Parlette, Roach, Schmidt, Schoesler, Stevens and Zarelli - 19

Voting nay: Senators Berkey, Brown, Eide, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 30

#### MOTION

Senator Haugen moved that the following amendment to the striking amendment by Senators Haugen Swecker be adopted.

On page 2, line 15, after "governor with the" insert "advice and"

Senators Haugen and Swecker spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment to the striking amendment by Senators Haugen, Benton and Swecker on page 2, line 15 to Senate Bill No. 5513.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Haugen to Senate Bill No. 5513.

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

#### MOTION

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

In line 2 of the title, after "agencies;" strike the remainder of the title and insert "amending RCW 43.17.020, 47.01.041, 47.01.061, 47.01.071, 47.05.021, 47.05.030, 47.05.035, 47.05.051, 44.75.020, 44.75.030, 44.75.040, 44.75.050, 44.75.080, 44.75.090, 44.75.100, 44.75.110, 44.75.120, 44.28.161, 35.58.2796, 36.78.070, 41.40.037, 43.10.101, 43.79.270, 43.79.280, 43.88.020, 43.88.030, 43.88.230, 43.105.160, 43.105.190, 44.04.260, 44.28.088, 44.40.025, 46.01.320, 46.01.325, 46.16.705, 46.16.715, 46.16.725, 46.73.010, 47.01.280, 47.04.210, 47.04.220, 47.06.110, 47.06A.020, 47.10.790, 47.10.801, 47.10.802, 47.17.850, 47.26.167, 47.26.170, 47.46.030, 47.46.040, 79A.05.125, 81.80.395, 81.104.110, 82.33.020, 82.70.060, and 82.80.070; reenacting and amending RCW 47.01.101 and 90.03.525; adding new sections to chapter 47.01 RCW; adding a new section to chapter 44.04 RCW; adding a new section to chapter 43.88 RCW; creating new sections; recodifying RCW 44.40.120 and 44.40.025; repealing RCW 44.40.010, 44.40.013, 44.40.015, 44.40.030, 44.40.040, 44.40.090, 44.40.140, 44.40.150, 44.40.161, 53.08.350, 44.40.020, 44.40.070, 44.40.080, 44.40.100, 46.23.040, 47.01.145, 47.05.090, 47.12.360, 47.76.340, 47.74.010, and 47.74.020; providing effective dates; providing an expiration date; and declaring an emergency."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Senate Bill No. 5513 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, Benton and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5513.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5513 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Shin, Spanel, Swecker, Thibaudeau, Weinstein and

Zarelli - 45

Voting nay: Senators Carrell, Schoesler and Sheldon - 3

Absent: Senator Stevens - 1

ENGROSSED SENATE BILL NO. 5513, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:37 p.m., on motion of Senator Eide, the Senate was declared to be at recess until 7:00 p.m.

The Senate was called to order at 7:00 p.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 5157, by Senators Regala, Carrell, Kline, Roach, Zarelli, Kastama, Oke, Franklin, Brandland, McCaslin and Shin

Revising provisions relating to local law enforcement automatic fingerprint identification systems.

#### MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5157 was substituted for Senate Bill No. 5157 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5157 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Johnson spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Esser, Senator Stevens was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5157.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5157 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 47

Absent: Senator Zarelli - 1

Excused: Senator Stevens - 1

SUBSTITUTE SENATE BILL NO. 5157, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Mulliken: "I just wanted to take a moment to inform the body that while we were at dinner break Senator Steven's husband was admitted into the hospital with some heart irregularities and thought it would be appropriate if offered a moment of prayer or thought, good thoughts for Keith Stevens."

#### MOMENT OF SILENCE

The Senate observed a moment of silence for Senator Stevens husband (Keith Stevens) which was admitted to the hospital.

#### MOTION

On motion of Senator Honeyford, Senator Zarelli was excused.

#### SECOND READING

SENATE BILL NO. 5702, by Senators Zarelli, Kline, Fairley, Regala, Rasmussen and McAuliffe

Creating the developmental disabilities community trust account. Revised for 1st Substitute: Creating the Dan Thompson memorial developmental disabilities community trust account.

#### MOTIONS

On motion of Senator Prentice, Substitute Senate Bill No. 5702 was substituted for Senate Bill No. 5702 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Prentice, the rules were suspended, Substitute Senate Bill No. 5702 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Esser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5702.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5702 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 47

Excused: Senators Stevens and Zarelli - 2

SUBSTITUTE SENATE BILL NO. 5702, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6014, by Senators Kline, Parlette, Kohl-Welles and Keiser

Concerning industrial insurance claims made due to disaster response.

#### MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6014 was substituted for Senate Bill No. 6014 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6014 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6014.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6014 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senator Brown - 1

Excused: Senator Stevens - 1

SUBSTITUTE SENATE BILL NO. 6014, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5454, by Senators Hargrove, Kline, Delvin, Thibaudeau, Johnson, Shin, Stevens, Rockefeller and Kohl-Welles

Revising trial court funding provisions.

#### MOTION

On motion of Senator Kline, Second Substitute Senate Bill No. 5454 was substituted for Senate Bill No. 5454 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

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

Beginning on page 2, after line 5, strike all material through "subsection." on page 5, line 30 and insert the following:

#### "PART I - COMPENSATION FOR JURY SERVICE

**Sec. 101.** RCW 2.36.150 and 2004 c 127 s 1 are each amended to read as follows:

Jurors shall receive for each day's or partial day's attendance, besides mileage at the rate determined under RCW 43.03.060, the following expense payments:

(1) Grand jurors (~~(may)~~) shall receive up to twenty-five dollars but in no case less than ten dollars for the first day or partial day in attendance and shall receive up to forty-five dollars but in no case less than thirty dollars for each day or partial day thereafter;

(2) Petit jurors (~~(may)~~) shall receive up to twenty-five dollars

but in no case less than ten dollars for the first day or partial day in attendance and shall receive up to forty-five dollars but in no case less than thirty dollars for each day or partial day thereafter;

(3) Coroner's jurors (~~(may)~~) shall receive up to twenty-five dollars but in no case less than ten dollars for the first day or partial day in attendance and shall receive up to forty-five dollars but in no case less than thirty dollars for each day or partial day thereafter;

(4) District court jurors (~~(may)~~) shall receive up to twenty-five dollars but in no case less than ten dollars (~~(-PROVIDED, That)~~) for the first day or partial day in attendance and shall receive up to forty-five dollars but in no case less than thirty dollars for each day or partial day thereafter;

(5) The state shall reimburse the county for fifty percent of juror compensation for each day or partial day of jury service and fifty percent of the cost of juror mileage.

However, a person excused from jury service at his or her own request shall be allowed not more than a per diem and such mileage, if any, as to the court shall seem just and equitable under all circumstances (~~(-PROVIDED FURTHER, That)~~). The state shall fully reimburse the county in which trial is held for all jury fees and witness fees related to criminal cases which result from incidents occurring within an adult or juvenile correctional institution (~~(-PROVIDED FURTHER, That)~~). The expense payments paid to jurors shall be determined by the county legislative authority and shall be uniformly applied within the county.

**Sec. 102.** RCW 3.50.135 and 1984 c 258 s 126 are each amended to read as follows:

In all civil cases, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court: PROVIDED, That no jury trial may be held on a proceeding involving a traffic infraction. A party requesting a jury shall pay to the court a fee which shall be the same as that for a jury in district court. If more than one party requests a jury, only one jury fee shall be collected by the court. The fee shall be apportioned among the requesting parties. Each juror (~~(may)~~) shall receive up to twenty-five dollars but in no case less than ten dollars for ((each)) the first day or partial day in attendance ((upon the municipal court)) and shall receive up to forty-five dollars but in no case less than thirty dollars for each day or partial day thereafter, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060((-PROVIDED, That)). The compensation paid jurors shall be determined by the legislative authority of the city and shall be uniformly applied. The state shall reimburse the city for fifty percent of juror compensation for each day or partial day of jury service and fifty percent of the cost of juror mileage.

Jury trials shall be allowed in all criminal cases unless waived by the defendant.

**Sec. 103.** RCW 35.20.090 and 1987 c 202 s 195 are each amended to read as follows:

In all civil cases and criminal cases where jurisdiction is concurrent with district courts as provided in RCW 35.20.250, within the jurisdiction of the municipal court, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court: PROVIDED, That no jury trial may be held on a proceeding involving a traffic infraction. A defendant requesting a jury shall pay to the court a fee which shall be the same as that for a jury in district court. Where there is more than one defendant in an action and one or more of them requests a jury, only one jury fee shall be collected by the court. Each juror (~~(may)~~) shall receive up to twenty-five dollars but in no case less

than ten dollars for ((each)) the first day or partial day in attendance ((upon the municipal court)) and shall receive up to forty-five dollars but in no case less than thirty dollars for each day or partial day thereafter, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060((-PROVIDED, That)). The compensation paid jurors shall be determined by the legislative authority of the city and shall be uniformly applied. The state shall reimburse the city for fifty percent of juror compensation for each day or partial day of jury service and fifty percent of the cost of juror mileage.

Trial by jury shall be allowed in criminal cases involving violations of city ordinances commencing January 1, 1972, unless such incorporated city affected by this chapter has made provision therefor prior to January 1, 1972.

**NEW SECTION. Sec. 104.** A new section is added to chapter 2.36 RCW to read as follows:

(1) The compensation to be paid jurors by counties and cities in RCW 2.36.150, 3.50.135, and 35.20.090 shall only take effect and shall only remain in effect upon an appropriation by the state legislature in each ensuing biennium to reimburse counties and municipalities for fifty percent of the cost of juror compensation and fifty percent of the cost of jury mileage.

(2) For each period for which a county or city seeks reimbursement for the expense of juror mileage and juror fees under RCW 2.36.150, 3.50.135, and 35.20.090, the jurisdiction shall submit documentation sufficiently detailing the total amount of mileage paid to all jurors, the total number of individuals reporting for at least one day or partial day of jury service and the total number of days or partial days served by the jurors so reporting.

(3) The amount of reimbursement for which each jurisdiction is eligible shall be calculated by summing the total amount of mileage paid multiplied by fifty percent and the total number of individual jurors reporting multiplied by fifty percent of the amount set by the local jurisdiction for the first day of service and the total number of days served by reporting jurors less the total number of individuals reporting for jury service multiplied by fifty percent of the amount set by the local jurisdiction.

(4) A sum equal to fifty percent of any savings realized by a county or city by result of the adoption of this act shall be deposited in the local trial court improvement account. The calculation of the amount to be deposited in the local trial court improvement account shall be the sum total of the amount to be reimbursed a jurisdiction under subsection (3) of this section minus fifty percent of the sum total of the total amount of mileage paid and the total number of days served by reporting jurors multiplied by ten dollars."

Correct any references accordingly.

Beginning on page 5, line 34, after "chapter" strike all material through "3.50.080(3)" on page 6, line 1

On page 6, beginning on line 2, after "account." strike all material through "account." on line 5

On page 6, beginning on line 10, after "chapter" strike all material through "3.50.080(3)" on line 12

On page 6, beginning on line 13, after "account." strike all material through "account." on line 15

On page 6, beginning on line 22, after "account." strike all material through "account." on line 25

On page 6, beginning on line 30, after "chapter" strike all material through "RCW 35.20.160(3)" on line 32

Beginning on page 6, line 33, after "account." strike all material through "account." on page 7, line 1

On page 1, beginning on line 1 of the title, after "amending RCW" strike all material through "35.20.160," on line 2 and insert "2.36.150, 3.50.135, 35.20.090,"

On page 1, line 4 of the title, after "36.18.020;" insert "adding a

new section to chapter 2.36 RCW;"

Senator Carrell spoke in favor of adoption of the amendment.

Senators Delvin and Hargrove spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 2, after line 5 to Second Substitute Senate Bill No. 5454.

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

#### MOTION

On motion of Senator Regala, Senator Thibaudeau was excused.

#### PARLIAMENTARY INQUIRY

Senator Hargrove: "We have two amendments here that amend the same line with different amounts. Can you tell me how we proceed through this. This amendment and amendment 326 amend the same page, same line and are just changing the amounts in different ways so if the President could give us some instruction please."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Hargrove, if you pass one amendment then the other amendment would be out of order."

#### MOTION

Senator Carrell moved that the following amendment by Senators Carrell and McCaslin be adopted.

On page 14, line 37, after "~~((thirty))~~" strike "sixty" and insert "thirty-eight"

On page 15, line 2, after "~~((thirty))~~" strike "sixty" and insert "thirty-eight"

Senators Carrell and Johnson spoke in favor of adoption of the amendment.

Senators Hargrove and Kline spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 14, line 37 to Second Substitute Senate Bill No. 5454.

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

#### MOTION

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

On page 14, line 37, after "~~((thirty))~~" strike "sixty" and insert "forty-five"

On page 15, line 2, after "~~((thirty))~~" strike "sixty" and insert "forty-five"

Senators Rasmussen and Johnson spoke in favor of adoption of the amendment.

Senators Kline, Hargrove and Delvin spoke against adoption of the amendment.

Senator Johnson demanded a division.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Rasmussen on page 14, line 37 to Second Substitute Senate Bill No. 5454.

The motion by Senator Rasmussen carried and the amendment was adopted by a rising voice vote.

#### MOTION

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

On page 16, after line 2, insert the following:

"NEW SECTION. Sec. 312. A new section is added to chapter 3.62 RCW to read as follows:

A county legislative body may impose a fee of up to twenty dollars for processing an ex parte order only in those district courts which provide a full-time judicial position devoted exclusively to the consideration and entry of ex parte orders. The fees collected pursuant to this section shall be deposited in the county trial court improvement account created in section 203 of this act.

NEW SECTION. Sec. 313. A new section is added to chapter 36.18 RCW to read as follows:

A county legislative body may impose a fee of up to twenty dollars for processing an ex parte order only in those superior courts which provide a full-time judicial position devoted exclusively to the consideration and entry of ex parte orders. The fees collected pursuant to this section shall be deposited in the county trial court improvement account created in section 203 of this act."

On page 1, line 7 of the title, after "adding" strike "a new section to chapter 3.62 RCW" and insert "new sections to chapter 3.62 RCW; adding a new section to chapter 36.18 RCW"

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Kline the amendment to Second Substitute Senate Bill No. 5454 was withdrawn.

#### MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5454 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline, Johnson and Hargrove spoke in favor of passage of the bill.

Senator Carrell spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5454.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5454 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Voting nay: Senators Benton, Carrell and McCaslin - 3

Excused: Senator Stevens - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5454, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5922, by Senators Stevens, Hargrove, Roach, Schmidt, Zarelli, Carrell and Finkbeiner

Changing procedures for investigations of child abuse or neglect.

#### MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5922 was substituted for Senate Bill No. 5922 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Stevens be adopted.

Beginning on page 4, line 34, after "investigation." strike all material through "report." on page 5, line 1, and insert "The department or law enforcement agency must advise a parent who is the subject of an abuse or neglect investigation of the complaints and allegations against him or her at the initial contact with that parent after he or she is identified as the subject, consistent with the laws maintaining the confidentiality of persons making complaints or allegations, unless such notice will jeopardize the safety or protection of the child or the course of the investigation."

On page 6, beginning on line 14, after "investigations" strike ", at the initial time of contact with the department or law enforcement."

On page 6, line 19, after "report" insert ", unless such notice will jeopardize the safety or protection of the child or the course of the investigation"

On page 7, line 23, after "rights of" insert "the child and"

On page 8, line 3, after "section" insert ", unless such notice will jeopardize the safety or protection of the child or the course of the investigation"

Senators Hargrove and Brandland spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens on page 4, line 34 to Substitute Senate Bill No. 5922.

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

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 5922 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Haugen and Fairley spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5922.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5922 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Finkbeiner, Franklin, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Swecker, Thibaudeau, Weinstein and Zarelli - 42

Voting nay: Senators Doumit, Fairley, Fraser, Haugen, Prentice and Spanel - 6

Excused: Senator Stevens - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5922, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5979, by Senators Benson, Carrell, Mulliken, Kastama, Poulsen, Parlette, Hewitt, Esser, Schmidt, Delvin, Berkey, Franklin, Sheldon, Brandland, Swecker, Schoesler, Zarelli, Honeyford, Rasmussen and Oke

Prohibiting interference with search and rescue dogs.

The measure was read the second time.

#### MOTION

On motion of Senator Benson, the rules were suspended, Senate Bill No. 5979 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Benson spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5979.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5979 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Stevens - 1

SENATE BILL NO. 5979, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5717, by Senators Rockefeller, Benton, Fairley, Oke, Keiser, Zarelli, Shin, Rasmussen and Kohl-Welles

Providing a funding formula for skill centers.

#### MOTIONS

On motion of Senator Rockefeller, Substitute Senate Bill No. 5717 was substituted for Senate Bill No. 5717 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Rockefeller, the rules were suspended, Substitute Senate Bill No. 5717 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Schmidt spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5717.

#### MOTION

On motion of Senator Regala, Senator Pridemore was excused.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5717 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Stevens - 1

SUBSTITUTE SENATE BILL NO. 5717, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5311, by Senators Rasmussen, Jacobsen, McAuliffe, Mulliken, Stevens, Roach, Shin, Kohl-Welles and Spanel

Creating an autism task force.

The measure was read the second time.

#### MOTION

On motion of Senator Rasmussen, the rules were suspended, Senate Bill No. 5311 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rasmussen, Roach, Parlette and Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5311.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5311 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach,

Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Stevens - 1

SENATE BILL NO. 5311, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5710, by Senators Poulsen, Swecker, Brown, Rockefeller, Regala, Pridemore, Kline, Rasmussen and Kohl-Welles

Requiring the removal of mercury components from end-of-life motor vehicles.

The measure was read the second time.

#### MOTION

Senator Mulliken moved that the following striking amendment by Senators Mulliken and Stevens be adopted.

On page 4, after line 32, insert the following:

"(e) Any person or entity holding legal title to a motor vehicle shall be held harmless for liabilities arising from the release of mercury from any mercury-added component installed in such a vehicle, delivered to motor vehicle recyclers or scrap recyclers, or transferred to the manufacturer or its agent or contractor."

Senators Mulliken and Poulsen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Mulliken and Stevens on page 4, after line 32 to Senate Bill No. 5710.

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

#### MOTION

Senator Morton moved that the following striking amendment by Senator Morton be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) The legislature finds that protecting human health and the environment is of the utmost importance to the citizens of the state of Washington.

(2) Mercury is introduced into the environment in a variety of ways via end of life of products including bilge pumps, oven doors, sump pumps, agricultural equipment, thermostats, clothes irons, and freezer door switches.

(3) It is the intent of the legislature to study the most appropriate and cost-effective manner to collect and recover all mercury-added components at the end of a product's useful life.

(4) The department of ecology shall convene a stakeholder group including representatives of manufacturers, recyclers, and consumers to study the most appropriate and cost-effective way to collect and recover mercury-added components at the end of a product's life and report the recommendations of the stakeholder group back to the legislature by December 31, 2005. The recommendations must include a list of all products that contain mercury-added components at the end of the product's life and a recommendation for appropriately disposing of those products, including an analysis of the cost to carry out the recommendations of the stakeholder group."

On page 1, line 2 of the title, after "vehicles;" strike the remainder of the title and insert "and creating a new section."

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

Senator Poulsen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Morton to Senate Bill No. 5710.

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

#### MOTION

Senator Mulliken moved that the following striking amendment by Senator Mulliken be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that protecting human health and the environment is of the utmost importance to the citizens of the state of Washington.

(2) Mercury is introduced into the environment in a variety of ways and although it is beyond the state's power to control all mercury emissions, there are many sources that can be controlled, including the mercury contained in automobiles.

(3) Mercury is or has historically been present in a number of auto components, including but not limited to: Hood and trunk light switches, antilock brake (ABS) sensors, lights, and navigational systems.

(4) The recycling of automobiles involves the crushing, shredding, and melting of auto scrap via thermal combustion. Preventing mercury or mercury-added components from entering thermal combustion units is an effective way to reduce mercury emissions into the environment.

(5) It is the intent of this chapter is to reduce the quantity of mercury released into the environment by:

(a) Removing mercury containing light switches and antilock brake sensors from end-of-life vehicles in the state of Washington; and

(b) Creating a collection and recovery program for mercury-added components removed from vehicles in the state of Washington.

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

(1) "Department" means the department of ecology.

(2) "End-of-life vehicle" means any motor vehicle that is sold, given, or otherwise conveyed to a motor vehicle crusher, motor vehicle recycler, or scrap recycling facility.

(3) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produced or assembled a new motor vehicle that used mercury-added components, or in the case of an imported motor vehicle, the importer or domestic distributor of the motor vehicle.

(4) "Mercury-added component" means mercury-containing light switches and antilock brake system sensors, which were intentionally installed in the motor vehicle.

(5) "Motor vehicle" includes any automobile, van, truck, motor home, motorcycle, travel trailer, or bus.

(6) "Motor vehicle recycler" means any person or entity licensed under chapter 46.80 RCW and engaged in the business of either acquiring or dismantling, or both, motor vehicles for the primary purpose of resale of their parts or materials.

(7) "Scrap recycling facility" means a fixed location, where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for remelting purposes.

**NEW SECTION. Sec. 3.** (1) On or after January 1, 2006, a motor vehicle recycler and a scrap recycling facility that intends to crush, bale, shear, or shred a motor vehicle that contains mercury light switches, shall, prior to crushing, baling, shearing, or shredding the vehicle, remove all mercury-added components, except components that cannot be removed due to damage to the vehicle, or otherwise ensure that all mercury-added components have already been removed.

(2) A mercury-added component removed from a motor vehicle is subject to hazardous waste rules and any other applicable rules adopted by the department pursuant to this chapter, including, but not limited to, standards for the handling of hazardous waste, standards for destination facilities, requirements for the tracking of universal waste shipments, import requirements, and the rules governing different products.

(3) Manufacturers shall, individually or as part of a group:

(a) Provide technical assistance to the department, including brochures that help to locate and remove mercury-added components; and

(b) Provide for the proper disposal of mercury-added components that have been removed by motor vehicle recyclers or scrap recycling facilities.

(4) The department shall provide technical assistance to businesses engaged in the dismantling or crushing of motor vehicles, including motor vehicle recyclers and scrap recycling facilities, concerning the safe removal and proper disposal of mercury-added components from motor vehicles, including information about entities that provide mercury recycling services.

**NEW SECTION. Sec. 4.** Sections 1 through 3 of this act constitute a new chapter in Title 70 RCW."

On page 1, line 2 of the title, after "vehicles;" strike the remainder of the title and insert "and adding a new chapter to Title 70 RCW."

Senators Mulliken and Parlette spoke in favor of adoption of the striking amendment.

Senators Poulsen and Rockefeller spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Mulliken to Senate Bill No. 5710.

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

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 5.** (1) The legislature finds that protecting human health and the environment is of the utmost importance to the citizens of the state of Washington. Mercury is introduced into the environment in a variety of ways through the disposal of products that are no longer operational, including bilge pumps, oven doors, sump pumps, agricultural equipment, thermostats, clothes irons, and freezer door switches. It is the intent of the legislature to study the most appropriate and cost-effective manner to collect and recover all mercury-added components when products are no longer operational.

(2) The department of ecology shall form a stakeholder group including representatives of manufacturers, recyclers, and consumers to study the most appropriate and cost-effective way to collect and recover mercury-added components of products and report recommendations of the stakeholder group back to the legislature by December 31, 2005. Those recommendations shall include a list of all products that contain mercury at the time of disposal and a recommendation for appropriately disposing of those products, including an analysis of the cost to carry out the recommendations of the stakeholder group."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, on line 1, after "components" strike the remainder of the title and insert "; and adding a new section.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford the amendment to Senate Bill No. 5710 was withdrawn.

#### MOTION

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

On page 2, beginning on line 2, after "environment" strike all material through "Washington" on line 6

On page 2, beginning on line 9, strike all of subsection (1)

On page 2, line 13, strike all of subsection (3)

On page 2, beginning on line 23, strike all of subsection (6)

On page 2, line 29, after "switches" strike all material through "sensors"

On page 2, beginning on line 31, strike all of subsection (8)

Renumber the remaining subsections consecutively.

Beginning on page 3, after line 5, strike all of sections 3 through 8 and insert the following:

**"NEW SECTION. Sec. 3.** The department of ecology shall develop a memorandum of understanding between motor vehicle recyclers, scrap recycling facilities, auto manufacturers, and steel companies. The memorandum of understanding shall allocate between each of these parties an appropriate role in the collection and disposal of mercury-added components from end-of-life vehicles.

The department of ecology shall report to the legislature by December 31, 2006, on the progress made on the collection of mercury-added components from end-of-life vehicles."

On page 1, beginning on line 2 of the title, after "vehicles;" strike the remainder of the title and insert "and creating new sections."

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Poulsen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 2 to Senate Bill No. 5710.

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

#### MOTION

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

Beginning on page 4, line 37, strike all of subsection (2) (a)

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

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Poulsen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 4, line 37 to Senate Bill No. 5710.

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

#### MOTION FOR IMMEDIATE RECONSIDERATION

Prior notice haven been given, Senator Jacobsen moved to immediately reconsider the vote by which amendment number 337 passed the Senate earlier in the day.

Senator Jacobsen moved to reconsider the vote by which the amendment by Senator Honeyford on page 2, line 2 to Senate Bill No. 5710 was adopted earlier in the day.

#### POINT OF ORDER

Senator Esser: "In response to Senator Jacobsen, that I believe that it is not timely made and any objection he might have been was waived by his failure to request a division on that particular vote. Now, we do not know who voted Aye and Nay but we would have had a division been called for."

#### PARLIAMENTARY INQUIRY

Senator Eide: "Rule 37, I'm taking a look on reconsideration has nothing in here regarding division. It just says it can be brought up immediately."

#### REPLY BY THE PRESIDENT

President Owen: "There's not a question in the Presidents mind as to whether or not Senator Jacobsen can make the can ask for the make the motion to reconsider since there's no way of determining in a voice vote who voted yes and who voted no so that's not in our discussions at this point. Let me sort this out, it is timely by our rules and the question that is before the body at this point is Senator Jacobsen motion to immediately reconsider the vote by which amendment number 337 failed. When you vote on this you will voting whether to vote on the amendment or not at this point. Your not actually voting on the amendment at this point."

#### PARLIAMENTARY INQUIRY

Senator Honeyford: "We have already failed another amendment and so we've gone on and proceeded with another amendment. Is it proper then to go back to a previous amendment."

#### REPLY BY THE PRESIDENT

President Owen: "In our reading of the rules, yes it is. We're on the same order of business which is the amendments and the bill which is before us at this time.

#### PARLIAMENTARY INQUIRY

Senator Jacobsen: "The previous amendment passed, it didn't fail."

The President declared the question before the Senate to be the adoption of the amendment number 337 by Senator Honeyford on page 2, line 2 to Senate Bill No. 5710 on reconsideration.

Senator Eide demanded a division.

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

The motion by Senator Honeyford failed and the amendment was not adopted by a rising voice vote on reconsideration.

#### MOTION

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

On page 7, beginning on line 5, strike all of section 7

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

On page 1, line 2 of the title, after "vehicles;" insert "and" and after "RCW" strike the remainder fo the title.

Senator Honeyford spoke in favor of adoption of the

amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 7, line 5 to Engrossed Senate Bill No. 5710.

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

#### MOTION

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

On page 7, after line 13, insert the following:

**"NEW SECTION. Sec. 9.** A new section is added to chapter 43.131 RCW to read as follows:

The mercury switch removal program under sections 1 through 7 of this act shall be terminated June 30, 2012, as provided in section 10 of this act.

**NEW SECTION. Sec. 10.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed effective June 30, 2013:

- (1) Section 1 of this act;
- (2) Section 2 of this act;
- (3) Section 3 of this act;
- (4) Section 4 of this act;
- (5) Section 5 of this act;
- (6) Section 6 of this act; and
- (7) Section 7 of this act."

On page 1, line 2 of the title, after "vehicles;" insert "adding new sections to chapter 43.131 RCW;"

Senator Mulliken spoke in favor of adoption of the amendment.

Senator Poulsen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Mulliken on page 7, line 13 to Engrossed Senate Bill No. 5710.

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

#### MOTION

On motion of Senator Poulsen, the rules were suspended, Engrossed Senate Bill No. 5710 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Poulsen, Swecker and Rasmussen spoke in favor of passage of the bill.

Senator Mulliken spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5710.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5710 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 35

Voting nay: Senators Benson, Benton, Brandland, Hewitt,

Honeyford, Johnson, McCaslin, Morton, Mulliken, Parlette, Pflug, Schoesler and Sheldon - 13

Excused: Senator Stevens - 1

ENGROSSED SENATE BILL NO. 5710, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Honeyford: "We've just received email from Senator Stevens and she tells us that her husband is in the hospital in Centralia with arethnia and everything else looks very good and he'll be kept over night and if its all good then she'll be back tomorrow. She thanks everyone for their prayers and concerns."

#### SECOND READING

SENATE BILL NO. 5736, by Senator Spanel

Air ambulance services.

#### MOTION

On motion of Senator Spanel, Engrossed Substitute Senate Bill No. 5736 was substituted for Senate Bill No. 5736 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that there is a need to assist island and rural citizens with the availability of affordable air ambulance service. The legislature further finds that there is a need to evaluate the feasibility of subscription air ambulance service offered by a vendor that solicits membership subscriptions, accepts membership applications, charges membership fees, and furnishes prepaid or discounted air ambulance service to subscription members and designated members of their households.

(2) The office of the insurance commissioner must perform an evaluation of the feasibility of subscription air ambulance service. This evaluation shall be geared toward allowing a person, entity, corporation, or nonprofit corporation to offer, sell, and provide subscription air ambulance service. The evaluation shall:

(a) Include consultation with public and private entities and individuals involved in offering, providing, and purchasing subscription air ambulance service;

(b) Assess the needs and concerns of likely subscription air ambulance vendors, including the costs of providing affordable air ambulance service to rural and island residents, as well as the burdens placed on vendors if held to the reporting and solvency requirements of the insurance code;

(c) Determine the implications of subscription air ambulance service on consumer protection issues; and

(d) Compare the state's need for affordable subscription air ambulance service to other states that allow this service, including an inquiry into the practices of out-of-state vendors who provide the service, as well as the applicability or nonapplicability of other states' insurance codes to the service.

(3) The office of the insurance commissioner must submit a report of its findings to the legislature by December 31, 2005, and the report must include recommendations based on the evaluation required under subsection (2) of this section.

(4) The subscription air ambulance service feasibility evaluation shall be funded by the office of the insurance commissioner."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Spanel and others to Engrossed Substitute Senate Bill No. 5736.

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

#### MOTION

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

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "and creating a new section."

#### MOTION

On motion of Senator Spanel, the rules were suspended, Engrossed Substitute Senate Bill No. 5736 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5736.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5736 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Stevens - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5736, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

#### SECOND READING

SENATE JOINT MEMORIAL NO. 8014, by Senators Thibaudeau, Jacobsen, Fairley, Brown, Prentice, McAuliffe, Regala, Rockefeller, Fraser, Rasmussen, Weinstein, Kline, Keiser and Kohl-Welles

Requesting that the privatization of social security be rejected.

The measure was read the second time.

#### MOTION

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

Strike everything after "follows:" on line 7, and insert the following:

"WHEREAS, Demographic changes and cost increases will drain the existing Social Security system; and

WHEREAS, Without significant changes to the system, costs

will exceed revenues starting in 2018 and the system will not be able to pay any benefits by 2042; and

WHEREAS, Anyone born after the year 1970 will not receive any Social Security benefits if changes are not made to the system; and

WHEREAS, Not reforming the system will require a 50 percent tax increase on every working American or a 30 percent benefit cut; and

WHEREAS, Allowing younger workers to invest a portion of their income in personal retirement accounts will allow younger workers to have a greater rate of return and retirement security; and

WHEREAS, Allowing younger workers to invest a portion of their income in personal retirement accounts will avoid any benefits cut and/or tax increases;

NOW, THEREFORE, Your Memorialists request that our elected Representatives and Senators in the United States Congress support no increases in payroll taxes, no cuts to Social Security benefits, and optional Social Security personal retirement accounts.

BE IT RESOLVED, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

Senator Esser demanded a roll call.

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

Senators Benton, Esser, Benson, Schoesler, Johnson, Finkbeiner spoke in favor of adoption of the striking amendment.

Senators Thibaudeau and Brown spoke against adoption of the striking amendment.

#### POINT OF ORDER

Senator Benton: "I'm sure we'll be able to debate the underline bill in a moment but I would like to ask that you ask the speaker to keep the remarks to the amendment that is before the body."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Benton, it's quite often and appropriate that a person refers to the body of a measure when they are talking about the amendment to show the contrast. I believe that she's within order"

#### POINT OF INQUIRY

Senator Kline: "Would Senator Esser yield to a question? Senator, it is your understanding that when Congress if they read this memorial were to ever know that had rejected that alternative. Would that be an understanding under the rules of statutory construction."

Senator Esser: "I believe so. I believe that the members of Congress take very seriously the joint memorials that we send to them and they will thoroughly research the legislative history cuz having met our congressional delegation I know how seriously they take their jobs."

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Benton and others to Senate Joint Memorial No. 8014.

## ROLL CALL

The Secretary called the roll on the adoption of the striking amendment by Senator Benton and others was not adopted by the following vote: Yeas, 23; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Roach, Schmidt, Schoesler, Sheldon, Swecker and Zarelli - 23

Voting nay: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 25

Excused: Senator Stevens - 1

## MOTION

On motion of Senator Thibaudeau, the rules were suspended, Senate Joint Memorial No. 8014 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Thibaudeau, Franklin and Fraser spoke in favor of passage of the bill.

Senators Zarelli, Benson, Benton and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8014.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8014 and the memorial passed the Senate by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 25

Voting nay: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Roach, Schmidt, Schoesler, Sheldon, Swecker and Zarelli - 23

Excused: Senator Stevens - 1

SENATE JOINT MEMORIAL NO. 8014, having received the constitutional majority, was declared passed.

## PERSONAL PRIVILEGE

Senator Morton: "Mr. President, I respectfully move that we include the roll call vote on the transmittal of this memorial."

## REPLY BY THE PRESIDENT

President Owen: "Senator Morton, for clarification because the vote is submitted with it, are you asking for individual vote count, I mean of each individual or are you asking for the Yeas and Nays?"

## PERSONAL PRIVILEGE

Senator Morton: "The roll call count which includes the names."

## PARLIAMENTARY INQUIRY

Senator Rockefeller: "Is there a Presidente that would support taking such action. I'm not aware of it and perhaps you could sight us some presidente for doing this."

## REPLY BY THE PRESIDENT

President Owen: "Perhaps I could but I can't. The President can not nor can any of us recall where this action as been taken in the past."

## PERSONAL PRIVILEGE

Senator Rockefeller: "May I encourage the members to vote no."

## PARLIAMENTARY INQUIRY

Senator McCaslin: "Just inform the body if we do send it this will set the presidente and I hope we do." 9:54 PM Text to be added.

## MOTION

At 9:58 p.m., on motion of Senator Eide, the Senate adjourned until 8:30 a.m. Tuesday, March 15, 2005.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate