

NINETY-EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Sunday, April 19, 2009

The Senate was called to order at 1:00 p.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brandland, Brown, Hewitt, Jacobsen, Pflug and Roach.

The Sergeant at Arms Color Guard consisting of Interns John McKean and Erik Ashlie-Vinke, presented the Colors. Senator Morton 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

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

REPORTS OF STANDING COMMITTEES

April 18, 2009

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

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6161 Prime Sponsor, Senator Prentice: Relating to the actuarial funding of pension systems. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6161 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Hewitt; Honeyford; Parlette and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6163 Prime Sponsor, Senator Keiser: Concerning the nursing facility medicaid payment system. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6163 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6165 Prime Sponsor, Senator Ranker: Allowing greater use of short boards for appeals before the shorelines hearings board. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6166 Prime Sponsor, Senator Hargrove: Concerning the sale of timber from state trust lands. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Parlette.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6167 Prime Sponsor, Senator Kline: Concerning crimes against property. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Honeyford; Parlette and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Hewitt.

Passed to Committee on Rules for second reading.

April 18, 2009

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

SB 6168 Prime Sponsor, Senator Tom: Reducing costs in state elementary and secondary education programs. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6169 Prime Sponsor, Senator Prentice: Enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6169 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Hewitt; Honeyford; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6170 Prime Sponsor, Senator Hobbs: Concerning environmental tax incentives. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6170 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6171 Prime Sponsor, Senator Prentice: Concerning savings in programs under the supervision of the department of health. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6171 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6172 Prime Sponsor, Senator Rockefeller: Eliminating the oil spill advisory council. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6172 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6173 Prime Sponsor, Senator Prentice: Improving sales tax compliance. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Hewitt; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6179 Prime Sponsor, Senator Tom: Concerning chemical dependency specialist services. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6180 Prime Sponsor, Senator Keiser: Relating to home care workers. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6180 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Honeyford; Keiser; Kline; McDermott; Oemig; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Carrell and Parlette.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6181 Prime Sponsor, Senator Tom: Concerning the intensive resource home pilot. Reported by Committee on Ways & Means

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

SB 6183 Prime Sponsor, Senator Regala: Changing the provisions relating to the early deportation of illegal alien offenders. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

April 18, 2009

SHB 1062 Prime Sponsor, Committee on Finance: Modifying the electrolytic processing business tax exemption. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Carrell; Hewitt; Hobbs; Honeyford; Keiser; Kline; McDermott; Murray; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

HB 1287 Prime Sponsor, Representative Morris: Concerning sales and use tax exemptions in respect to aircraft used in intrastate commuter operations. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget.

Passed to Committee on Rules for second reading.

April 18, 2009

2SHB 1481 Prime Sponsor, Committee on Finance: Regarding electric vehicles. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Hewitt; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

April 18, 2009

HB 1579 Prime Sponsor, Representative Appleton: Concerning a business and occupation tax exemption for nonprofit organizations that provide legal services to low-income individuals. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Parlette and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

April 18, 2009

EHB 1616 Prime Sponsor, Representative Simpson: Addressing the state pension benefits of certain domestic partners. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

EHB 1815 Prime Sponsor, Representative Sullivan: Concerning current use valuation under the property tax open space program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Rural Economic Development. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

ESHB 2075 Prime Sponsor, Committee on Finance: Concerning the excise taxation of certain products and services provided or furnished electronically. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs;

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Hewitt; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

EHB 2242 Prime Sponsor, Representative Kenney: Creating a department of commerce. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hewitt; Hobbs; Keiser; Kohl-Welles; McDermott; Murray; Oemig; Parlette and Regala.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

ESHB 2245 Prime Sponsor, Committee on Ways & Means: Clarifying public employees' benefits board eligibility. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

ESHB 2327 Prime Sponsor, Committee on Ways & Means: Eliminating or reducing the frequency of reports prepared by state agencies. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

HB 2328 Prime Sponsor, Representative Linville: Reducing the administrative cost of state government. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MOTION

Senator Murray moved adoption of the following resolution:

SENATE RESOLUTION
8664

By Senator Murray

WHEREAS, Massachusetts-born Peter Donnelly arrived in Seattle in 1964 as a Ford Foundation intern at Seattle Repertory Theatre and rose quickly through the ranks to become its Managing Director in 1965; and

WHEREAS, Peter Donnelly helped draft the legislation that created the Seattle Arts Commission in 1971; and

WHEREAS, In 1983, Peter Donnelly was the driving force behind the construction of the Bagley Wright Theatre, the first major capital project for an arts group on the Seattle Center campus since the 1962 World's Fair; and

WHEREAS, Peter Donnelly became the president and CEO of Corporate Council for the Arts, now ArtsFund, in 1989 and led it through an astonishing two decades of growth until his retirement in 2005; and

WHEREAS, Peter Donnelly helped ensure the survival of the National Endowment for the Arts in the early 1990s when the agency was under attack in Congress by securing the key support of Senator Slade Gorton; and

WHEREAS, Peter Donnelly was the staunch advocate and prime mover behind the establishment of the statewide Building for the Arts Program in 1991 that has since distributed more than 58 million dollars to 150 arts capital projects across the state of Washington; and

WHEREAS, Peter Donnelly was the single greatest force behind the transformation of Seattle from a mid-sized American city with a few arts organizations to a nationally recognized cultural capital with major institutions in music, visual art, ballet, opera, and theatre, including two Tony award-winning regional theatres and an extensive network of independent artists and arts organizations;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate does hereby proclaim the Senate's collective sadness at Peter Donnelly's passing, and urges all citizens to join in celebrating this exceptional man for his outstanding leadership and contributions to the State of Washington.

Senators Murray and Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8664.

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

MOTION

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

SIGNED BY THE PRESIDENT

The President signed:
SENATE BILL NO. 5568,

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9146, Denny Heck, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

On motion of Senator Delvin, Senators Becker, Benton, Brandland McCaslin, Pflug and Roach were excused.

APPOINTMENT OF DENNY HECK

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9146, Denny Heck as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9146, Denny Heck as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote:
Yeas, 42; Nays, 0; Absent, 3; Excused, 4.

Voting yea: Senators Becker, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Brown, Hewitt and Jacobsen

Excused: Senators Benton, Brandland, Pflug and Roach

Gubernatorial Appointment No. 9146, Denny Heck, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Evergreen State College.

MOTION

On motion of Senator Marr, Senators Brown and Jacobsen were excused.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kastama moved that Gubernatorial Appointment No. 9037, Marc Gaspard, as a member of the Board of Trustees, Pierce Community College District No. 11, be confirmed.

Senator Kastama spoke in favor of the motion.

APPOINTMENT OF MARC GASPARD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9037, Marc Gaspard as a member of the Board of Trustees, Pierce Community College District No. 11.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9037, Marc Gaspard as a member of the Board of Trustees, Pierce Community College

District No. 11 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Benton, Brandland, Jacobsen, Pflug and Roach

Gubernatorial Appointment No. 9037, Marc Gaspard, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Pierce Community College District No. 11.

MOTION

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

MESSAGE FROM THE HOUSE

April 6, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5160 with the following amendment: 5160-S AMH JUDI H2856.3

On page 5, line 37, after "seizure" insert "in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5160.
Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5160.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5160 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5160, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5160, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

Excused: Senators Benton, Brandland, Jacobsen, Pflug and Roach

SUBSTITUTE SENATE BILL NO. 5160, as amended by the House, 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 Shin: "Thank you very much Mr. President and members of the Senate. Yesterday I committed an unpardonable crime. I'm sorry I was away from the chamber when in session. Sometime in January I was invited by Microsoft to speak to the International Employees in Microsoft, there were about four hundred of them. I had to go and excuse myself and I will express my profound appreciation to all the members voting for my three important legislation in Higher Education Committee starting with the human rights legislation, pan-Asian issues also honorary doctorate. That means a lot for the universities and I appreciate that and thank you very much. On top of that, on a personal note, my wife is very sick so it gave me time to go visit her and spend the time with her. Thank you very much Mr. President."

MESSAGE FROM THE HOUSE

April 6, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5171 with the following amendment: 5171-S AMH JUDI BARC 023

On page 2, beginning on line 10, after "payment" strike "as of the first business day of the accounting period" and insert "((as of the first business day of the accounting period)) according to the most recent statement of value preceding the beginning of the accounting period"

On page 3, line 8, after "equal" strike "three" and insert "four"

On page 3, beginning on line 20, strike all of section 2

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

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5171.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5171.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5171 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5171, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of

Substitute Senate Bill No. 5171, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5171, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5180 with the following amendment: 5180 AMH TR H2851.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.560 and 1991 c 319 s 408 are each amended to read as follows:

(1) Outside of incorporated cities and towns no person may stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway.

(2) Subsection (1) of this section and RCW 46.61.570 and 46.61.575 do not apply to the driver of any vehicle that is disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position. The driver shall nonetheless arrange for the prompt removal of the vehicle as required by RCW 46.61.590.

(3) Subsection (1) of this section does not apply to the driver of a public transit vehicle who temporarily stops the vehicle upon the roadway for the purpose of and while actually engaged in receiving or discharging passengers at a marked transit vehicle stop zone approved by the state department of transportation or a county upon highways under their respective jurisdictions. However, public transportation service providers, including private, nonprofit transportation providers regulated under chapter 81.66 RCW, may allow the driver of a transit vehicle to stop upon the roadway momentarily to receive or discharge passengers at an unmarked stop zone only under the following circumstances: (a) The driver stops the vehicle in a safe and practicable position; (b) the driver activates four-way flashing lights; and (c) the driver stops at a portion of the highway with an unobstructed view, for an adequate distance so as to not create a hazard, for other drivers.

(4) Subsection (1) of this section and RCW 46.61.570 and 46.61.575 do not apply to the driver of a solid waste collection company or recycling company vehicle who temporarily stops the vehicle as close as practical to the right edge of the right-hand shoulder of the roadway or right edge of the roadway if no shoulder exists for the purpose of and while actually engaged in the collection of solid waste or recyclables, or both, under chapters 81.77, 35.21, and 35A.21 RCW or by contract under RCW (~~36.58.030~~ ~~36.58.040~~) 36.58.040."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

Senator Jarrett moved that the Senate concur in the House amendment(s) to Senate Bill No. 5180.

Senators Jarrett and Swecker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Jarrett that the Senate concur in the House amendment(s) to Senate Bill No. 5180.

The motion by Senator Jarrett carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5180 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5180, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5180, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Senator Honeyford

Excused: Senators Benton, Brandland and Jacobsen

SENATE BILL NO. 5180, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5229 with the following amendment: 5229-S AMH APPE H3025.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.300.801 and 2007 c 291 s 2 are each amended to read as follows:

(1) The legislative youth advisory council is established to examine issues of importance to youth, including but not limited to education, employment, strategies to increase youth participation in state and municipal government, safe environments for youth, substance abuse, emotional and physical health, foster care, poverty, homelessness, and youth access to services on a statewide and municipal basis.

(2) The council consists of twenty-two members as provided in this subsection who, at the time of appointment, are aged fourteen to eighteen. The council shall select a chair from among its members.

(3) Except for initial members, members shall serve two-year terms, and if eligible, may be reappointed for subsequent two-year terms. One-half of the initial members shall be appointed to one-year terms, and these appointments shall be made in such a way as to preserve overall representation on the committee.

(4)(a) By July 2, 2007, and annually thereafter, students may apply to be considered for participation in the program by completing an online application form and submitting the application to the legislative youth advisory council. The council may develop selection criteria and an application review

process. The council shall recommend candidates whose names will be submitted to the office of the lieutenant governor for final selection. Beginning with the effective date of this act, the office of the lieutenant governor shall notify all applicants of the final selections using existing staff and resources.

(b) Within existing staff and resources, the office of the lieutenant governor shall make the application available on the lieutenant governor's web site.

(5) If the council has sufficient funds from any source, then the council shall have the following duties:

(a) Advising the legislature on proposed and pending legislation, including state budget expenditures and policy matters relating to youth;

(b) Advising the standing committees of the legislature and study commissions, committees, and task forces regarding issues relating to youth;

(c) Conducting periodic seminars for its members regarding leadership, government, and the legislature;

(d) Accepting and soliciting for grants and donations from public and private sources to support the activities of the council; and

(e) Reporting annually by December 1st to the legislature on its activities, including proposed legislation that implements recommendations of the council.

(6) If the council has sufficient funds from any source, then in carrying out its duties under this section, the council may meet at least three times but not more than six times per year. The council shall consider conducting at least some of the meetings via the K-20 telecommunications network. ((Councils are)) The council is encouraged to invite local state legislators to participate in the meetings. The council is encouraged to poll other students in order to get a broad perspective on the various issues. The council is encouraged to use technology to conduct the polling, including the council's web site, if the council has a web site.

(7) If the council has sufficient funds from any source, then members shall be reimbursed as provided in RCW 43.03.050 and 43.03.060.

(8) If sufficient funds are available from any source, beginning with the effective date of this act, the office of superintendent of public instruction shall provide administration, coordination, and facilitation assistance to the council. The senate and house of representatives may provide policy and fiscal briefings and assistance with drafting proposed legislation. The senate and the house of representatives shall each develop internal policies relating to staff assistance provided to the council. Such policies may include applicable internal personnel and practices guidelines, resource use and expense reimbursement guidelines, and applicable ethics mandates. Provision of funds, resources, and staff, as well as the assignment and direction of staff, remains at all times within the sole discretion of the chamber making the provision.

(9) The office of the lieutenant governor, the office of ~~((the))~~ the superintendent of public instruction, the legislature, any agency of the legislature, and any official or employee of such office or agency are immune from liability for any injury that is incurred by or caused by a member of the youth advisory council and that occurs while the member of the council is performing duties of the council or is otherwise engaged in activities or receiving services for which reimbursement is allowed under subsection (7) of this section. The immunity provided by this subsection does not apply to an injury intentionally caused by the act or omission of an employee or official of the superintendent of public instruction or the legislature or any agency of the legislature.

~~((10) This section expires June 30, 2009.))~~

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."

NINETY-EIGHTH DAY, APRIL 19, 2009

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5229.
Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5229.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5229 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5229, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5229, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Senator Honeyford

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5229, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5262 with the following amendment: 5262-S.E AMH PSEP H2873.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.118 and 2005 c 274 s 307 and 2005 c 246 s 23 are each reenacted and amended to read as follows:

(1) The department shall maintain a negative file. It shall contain negatives of all pictures taken by the department of licensing as authorized by ~~((RCW 46.20.070 through 46.20.119))~~ this chapter. Negatives in the file shall not be available for public inspection and copying under chapter 42.56 RCW.

(2) The department may make the file available to official governmental enforcement agencies to assist in the investigation by the agencies of suspected criminal activity or for the purposes of verifying identity when a law enforcement officer is authorized by law to request identification from an individual.

(3) The department shall make the file available to the office of the secretary of state, at the expense of the secretary of state, to assist in maintenance of the statewide voter registration database.

2009 REGULAR SESSION

(4) The department may also provide a print to the driver's next of kin in the event the driver is deceased."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5262.
Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5262.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5262 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5262, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5262, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Hargrove

Excused: Senators Benton, Brandland and Jacobsen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5262, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5268 with the following amendment: 5268-S AMH AGNR H2770.1

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 77.12 RCW to read as follows:

(1) The fish and wildlife equipment revolving account is created in the custody of the state treasurer. The department must reimburse the account for all moneys expended from the account. Reimbursements may be made with moneys appropriated to the department or from other moneys otherwise available to the department. All moneys generated by the use or repair of vehicles, water vessels, and heavy equipment or generated by the sale or surplus of vehicles, water vessels, and heavy equipment must be deposited in the account. The department's reimbursements may be prorated over the useful life of the vehicle, water vessel, or heavy equipment acquired with moneys from the account.

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

(2) Expenditures from the account may be used only for the purchase or lease of vehicles, water vessels, and heavy equipment, to include the payment of costs for the operation, repair, and maintenance of the vehicles, water vessels, and heavy equipment.

(3) Only the director of fish and wildlife or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) For the purposes of this section, the terms and charges for the intra-agency use of vehicles, water vessels, or heavy equipment or for the disposal through sale of vehicles, water vessels, or heavy equipment is solely within the discretion of the department and the department's determination of the terms, charges, or sale price is considered a reasonable term, charge, or sale price."

Correct the title and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5268.

Senators Ranker and Swecker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5268.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5268 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5268, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5268, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Shin

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5268, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5289 with the following amendment: 5289 AMH TR H2945.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.39.020 and 2003 c 55 s 1 are each amended to read as follows:

The following portions of highways are designated as part of the scenic and recreational highway system:

(1) State route number 2, beginning at the crossing of Woods creek at the east city limits of Monroe, thence in an easterly direction by way of Stevens pass to a junction with state route number 97 in the vicinity of Peshastin; also

Beginning at the junction with state route number 17, in the vicinity of Coulee City, thence easterly to the junction with state route number 155;

(2) State route number 3, beginning at a junction with state route number 101 in the vicinity of Shelton, thence northeasterly and northerly to a junction with state route number 104 in the vicinity of Port Gamble;

(3) State route number 4, beginning at the junction with state route number 101, thence easterly through Cathlamet to Coal Creek road, approximately .5 miles west of the Longview city limits;

(4) State route number 6, beginning at the junction with state route number 101 in Raymond, thence easterly to the junction with state route number 5, in the vicinity of Chehalis;

(5) State route number 7, beginning at the junction with state route number 12 in Morton, thence northerly to the junction with state route number 507;

(6) State route number 8, beginning at a junction with state route number 12 in the vicinity of Elma, thence easterly to a junction with state route number 101 near Tumwater;

(7) State route number 9, beginning at the junction with state route number 530 in Arlington, thence northerly to the end of the route at the Canadian border;

(8) State route number 10, beginning at Teanaway junction, thence easterly to a junction with state route number 97 west of Ellensburg;

(9) State route number 11, beginning at the junction with state route number 5 in the vicinity of Burlington, thence in a northerly direction to the junction with state route number 5;

(10) State route number 12, beginning at a junction with a county road approximately 2.8 miles west of the crossing of the Wynoochee river which is approximately 1.2 miles west of Montesano, thence in an easterly direction to a junction with state route number 8 in the vicinity of Elma; also

Beginning at a junction with state route number 5, thence easterly by way of Morton, Randle, and Packwood to the junction with state route number 410, approximately 3.5 miles west of Naches; also

Beginning at the junction with state route number 124 in the vicinity of the Tri-Cities, thence easterly through Wallula and Touchet to a junction with a county road approximately 2.4 miles west of a junction with state route number 129 at Clarkston;

(11) State route number 14, beginning at the crossing of Gibbons creek approximately 0.9 miles east of Washougal, thence easterly along the north bank of the Columbia river to a point in the vicinity of Plymouth;

(12) State route number 17, beginning at a junction with state route number 395 in the vicinity of Mesa, thence northerly to the junction with state route number 97 in the vicinity of Brewster;

(13) State route number 19, the Chimacum-Beaver Valley road, beginning at the junction with state route number 104, thence northerly to the junction with state route number 20;

(14) State route number 20, beginning at the junction with state route number 101 to the ferry zone in Port Townsend; also

Beginning at the Keystone ferry slip on Whidbey Island, thence northerly and easterly to a junction with state route number 153 southeast of Twisp; also

Beginning at the junction of state route number 97 in the vicinity of Okanogan, thence westerly across the Okanogan river to the junction with state route number 215; also

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

Beginning at a junction with state route number 97 near Tonasket, thence easterly and southerly to a junction with state route number 2 at Newport;

(15) State route number 25, beginning at the Spokane river bridge, thence northerly through Cedonia, Gifford, Kettle Falls, and Northport, to the Canadian border;

(16) State route number 26, beginning at the Whitman county boundary line, thence easterly by way of the vicinities of La Crosse and Dusty to a junction with state route number 195 in the vicinity of Colfax;

(17) State route number 27, beginning at a junction with state route number 195 in the vicinity of Pullman, thence northerly by way of the vicinities of Palouse and Garfield to a junction with state route number 271 in the vicinity of Oakesdale; also

From a junction with state route number 271 at Oakesdale, thence northerly to the vicinity of Tekoa;

(18) State route number 31, beginning at the junction with state route number 20 in Tiger, thence northerly to the Canadian border;

(19) State route number 82, beginning at the junction with state route number 395 south of the Tri-Cities area, thence southerly to the end of the route at the Oregon border;

(20) State route number 90, beginning at the junction with East Sunset Way in the vicinity east of Issaquah, thence easterly to Thorp road 9.0 miles west of Ellensburg;

(21) State route number 97, beginning at the Oregon border, in a northerly direction through Toppenish and Wapato to the junction with state route number 82 at Union Gap; also

Beginning at the junction with state route number 10, 2.5 miles north of Ellensburg, in a northerly direction to the junction with state route number 2, 4.0 miles east of Leavenworth; also

Beginning at the junction of state route number 153 in the vicinity south of Pateros, thence northerly by way of the vicinities of Brewster, Okanogan, Omak, Riverside, Tonasket, and Oroville to the international boundary line;

(22) State route number 97 alternate, beginning at the junction with state route number 2 in the vicinity of Monitor, thence northerly to the junction with state route number 97, approximately 5.0 miles north of Chelan;

(23) State route number 101, beginning at the Astoria-Megler bridge, thence north to Fowler street in Raymond; also

Beginning at a junction with state route number 109 in the vicinity of Queets, thence in a northerly, northeasterly, and easterly direction by way of Forks to the junction with state route number 5 in the vicinity of Olympia;

(24) State route number 104, beginning at a junction with state route number 101 in the vicinity south of Discovery bay, thence in a southeasterly direction to the Kingston ferry crossing;

(25) State route number 105, beginning at a junction with state route number 101 at Raymond, thence westerly and northerly by way of Tokeland and North Cove to the shore of Grays Harbor north of Westport; also

Beginning at a junction with state route number 105 in the vicinity south of Westport, thence northeasterly to a junction with state route number 101 at Aberdeen;

(26) State route number 109, beginning at a junction with state route number 101 in Hoquiam to a junction with state route number 101 in the vicinity of Queets;

(27) State route number 112, beginning at the easterly boundary of the Makah Indian reservation, thence in an easterly direction to the vicinity of Laird's corner on state route number 101;

(28) State route number 116, beginning at the junction with the Chimacum-Beaver Valley road, thence in an easterly direction to Fort Flagler State Park;

(29) State route number 119, beginning at the junction with state route number 101 at Hoodspport, thence northwesterly to the Mount Rose development intersection;

(30) State route number 122, Harmony road, between the junction with state route number 12 near Mayfield dam and the junction with state route number 12 in Mossyrock;

(31) State route number 123, beginning at the junction with state route number 12 in the vicinity of Morton, thence northerly to the junction with state route number 410;

(32) State route number 129, beginning at the Oregon border, thence northerly to the junction with state route number 12 in Clarkston;

(33) State route number 141, beginning at the junction with state route number 14 in Bingen, thence northerly to the end of the route at the Skamania county line;

(34) State route number 142, beginning at the junction with state route number 14 in Lyle, thence northeasterly to the junction with state route number 97, .5 miles from Goldendale;

(35) State route number 153, beginning at a junction with state route number 97 in the vicinity of Pateros, thence in a northerly direction to a junction with state route number 20 in the vicinity south of Twisp;

(36) State route number 155, beginning at a junction with state route number 2 in the vicinity north of Coulee City, thence northerly and westerly to the junction with state route number 215;

(37) State route number 194, beginning at the Port of Alмота to the junction with state route number 195 in the vicinity of Pullman;

(38) State route number 195, beginning at the Washington-Idaho boundary line southeast of Uniontown, thence northwesterly and northerly by way of the vicinity of Colton, Pullman, Colfax, Steptoe, and Rosalia to the Whitman county boundary line;

(39) State route number 202, beginning at the junction with state route number 522, thence in an easterly direction to the junction with state route number 90 in the vicinity of North Bend;

(40) State route number 211, beginning at the junction with state route number 2, thence northerly to the junction with state route number 20 in the vicinity of Usk;

(41) State route number 215, beginning at the junction of state route number 20 in the vicinity of Okanogan, thence northeasterly on the west side of the Okanogan river to a junction with state route number 97 north of Omak;

(42) State route number 231, beginning at the junction with state route number 23, in the vicinity of Sprague, thence in a northerly direction to the junction with state route number 2, approximately 2.5 miles west of Reardan;

(43) State route number 261, beginning at the junction with state route number 12 in the vicinity of Delaney, thence northwesterly to the junction with state route number 260;

(44) State route number 262, beginning at the junction with state route number 26, thence northeasterly to the junction with state route number 17 between Moses Lake and Othello;

(45) State route number 271, beginning at a junction with state route number 27 in the vicinity of Oakesdale, thence northwesterly to a junction with state route number 195 in the vicinity south of Rosalia;

(46) State route number 272, beginning at the junction with state route number 195 in Colfax, thence easterly to the Idaho state line, approximately 1.5 miles east of Palouse;

(47) State route number 305, beginning at the Winslow ferry dock to the junction with state route number 3 approximately 1.0 mile north of Poulsbo;

(48) State route number 395, beginning at the north end of the crossing of Mill creek in the vicinity of Colville, thence in a northwesterly direction to a junction with state route number 20 at the west end of the crossing over the Columbia river at Kettle Falls;

(49) State route number 401, beginning at a junction with state route number 101 at Point Ellice, thence easterly and northerly to a junction with state route number 4 in the vicinity north of Naselle;

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

(50) State route number 410, beginning 4.0 miles east of Enumclaw, thence in an easterly direction to the junction with state route number 12, approximately 3.5 miles west of Naches;

(51) State route number 501, beginning at the junction with state route number 5 in the vicinity of Vancouver, thence northwesterly on the New Lower River road around Vancouver Lake;

(52) State route number 503, beginning at the junction with state route number 500, thence northerly by way of Battle Ground and Yale to the junction with state route number 5 in the vicinity of Woodland;

(53) State route number 504, beginning at a junction with state route number 5 at Castle Rock, to the end of the route on Johnston Ridge, approximately milepost 52;

(54) State route number 505, beginning at the junction with state route number 504, thence northwesterly by way of Toledo to the junction with state route number 5;

(55) State route number 508, beginning at the junction with state route number 5, thence in an easterly direction to the junction with state route number 7 in Morton;

(56) State route number 525, beginning at the ferry toll booth on Whidbey Island to a junction with state route number 20 east of the Keystone ferry slip;

(57) State route number 542, beginning at the junction with state route number 5, thence easterly to the vicinity of Austin pass in Whatcom county;

(58) State route number 547, beginning at the junction with state route number 542 in Kendall, thence northwesterly to the junction with state route number 9 in the vicinity of the Canadian border;

(59) State route number 706, beginning at the junction with state route number 7 in Elbe, in an easterly direction to the end of the route at Mt. Rainier National Park;

(60) State route number 821, beginning at a junction with state route number 82 at the Yakima firing center interchange, thence in a northerly direction to a junction with state route number 82 at the Thrall road interchange;

(61) State route number 971, Navarre Coulee road, between the junction with state route number 97 and the junction with South Lakeshore road;

(62) Beginning at the Anacortes ferry landing, the Washington state ferries Anacortes/San Juan Islands route, which includes stops at Lopez, Shaw, Orcas, and San Juan Islands; and the roads on San Juan and Orcas Islands as described in San Juan Island county council resolution number 7, adopted February 5, 2008;

(63) All Washington state ferry routes."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Senate Bill No. 5289.

Senators Ranker, Swecker and McDermott spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Senate Bill No. 5289.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5289 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5289, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5289, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators McCaslin, Morton and Roach

Excused: Senators Benton, Brandland and Jacobsen

SENATE BILL NO. 5289, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5340 with the following amendment: 5340-S AMH APPG H3087.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.155.010 and 2006 c 14 s 2 are each amended to read as follows:

The definitions set forth in RCW 82.24.010 shall apply to ~~((RCW 70.155.020 through 70.155.130))~~ this chapter. In addition, for the purposes of this chapter, unless otherwise required by the context:

(1) "Board" means the Washington state liquor control board.

~~(2) ("Delivery sale" means any sale of cigarettes to a consumer in the state where either: (a) The purchaser submits an order for a sale by means of a telephonic or other method of voice transmission, mail delivery, any other delivery service, or the internet or other online service; or (b) the cigarettes are delivered by use of mail delivery or any other delivery service. A sale of cigarettes shall be a delivery sale regardless of whether the seller is located within or without the state. A sale of cigarettes not for personal consumption to a person who is a wholesaler licensed pursuant to chapter 82.24 RCW or a retailer pursuant to chapter 82.24 RCW is not a delivery sale.~~

~~(3) "Delivery service" means any private carrier engaged in the commercial delivery of letters, packages, or other containers that requires the recipient of that letter, package, or container to sign to accept delivery.~~

~~(4)) "Internet" means any computer network, telephonic network, or other electronic network.~~

~~(3) "Minor" refers to an individual who is less than eighteen years old.~~

~~((5)) (4) "Sample" means a tobacco product distributed to members of the general public at no cost or at nominal cost for product promotion purposes.~~

~~((6)) (5) "Sampling" means the distribution of samples to members of the public.~~

~~((7) "Shipping container" means a container in which cigarettes are shipped in connection with a delivery sale.~~

~~(8) "Shipping documents" means bills of lading, airbills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.~~

~~(9)) (6) "Tobacco product" means a product that contains tobacco and is intended for human use, including any product defined in RCW 82.24.010(2) or 82.26.010(1), except that for~~

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

the purposes of section 2 of this act only, "tobacco product" does not include cigars defined in RCW 82.26.010 as to which one thousand units weigh more than three pounds.

NEW SECTION. Sec. 2. A new section is added to chapter 70.155 RCW to read as follows:

(1) A person may not:

(a) Ship or transport, or cause to be shipped or transported, any tobacco product ordered or purchased by mail or through the internet to anyone in this state other than a licensed wholesaler or retailer; or

(b) With knowledge or reason to know of the violation, provide substantial assistance to a person who is in violation of this section.

(2)(a) A person who knowingly violates subsection (1) of this section is guilty of a class C felony, except that the maximum fine that may be imposed is five thousand dollars.

(b) In addition to or in lieu of any other civil or criminal remedy provided by law, a person who has violated subsection (1) of this section is subject to a civil penalty of up to five thousand dollars for each violation. The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court. For purposes of this subsection, each shipment or transport of tobacco products constitutes a separate violation.

(3) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of subsection (1) of this section and to compel compliance with subsection (1) of this section.

(4) Any violation of subsection (1) of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for violation of subsection (1) of this section lies solely with the attorney general. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

(5)(a) In any action brought under this section, the state is entitled to recover, in addition to other relief, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

(b) If a court determines that a person has violated subsection (1) of this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the general fund.

(6) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this state.

NEW SECTION. Sec. 3. RCW 70.155.105 (Delivery sale of cigarettes--Requirements, unlawful practices--Penalties--Enforcement) and 2003 c 113 s 2 are each repealed."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5340.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5340.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5340 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5340, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5340, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Carrell, Delvin, Hewitt, McCaslin, Morton, Parlette, Stevens and Zarelli

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5340, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5355 with the following amendment: 5355 AMH LGH H2964.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 27.12.040 and 1990 c 259 s 1 are each amended to read as follows:

The procedure for the establishment of a rural county library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the county who voted in the last general election, outside of the area of incorporated cities and towns, asking that the question, "Shall a rural county library district be established?" be submitted to a vote of the people, shall be filed with the county legislative authority. For all districts created after the effective date of this act, the petition may include a proposed initial maximum levy rate. This initial maximum levy rate must not exceed the rate limit set forth in RCW 27.12.050(1).

(2) The county legislative authority, after having determined that the petitions were signed by the requisite number of registered voters, shall place the proposition for the establishment of a rural county library district on the ballot for the vote of the people of the county, outside incorporated cities and towns, at the next succeeding general or special election. If the petition to create the rural county library district included a proposed initial maximum levy rate, the ballot proposition for the establishment of the rural county library district must include the initial maximum levy rate specified in the petition. This ballot must be submitted in such form as to enable the voters favoring the proposition to vote "Yes" and those opposing to vote "No."

(3) If a majority of those voting on the proposition vote in favor of the establishment of the rural county library district, the county legislative authority shall forthwith declare it established.

Sec. 2. RCW 27.12.050 and 1973 1st ex.s. c 195 s 5 are each amended to read as follows:

(1) After the board of county commissioners has declared a rural county library district established, it shall appoint a board of library trustees and provide funds for the establishment and

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

maintenance of library service for the district by making a tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year sufficient for the library service as shown to be required by the budget submitted to the board of county commissioners by the board of library trustees, and by making a tax levy in such further amount as shall be authorized pursuant to RCW 27.12.222 or 84.52.052 or 84.52.056. Such levies shall be a part of the general tax roll and shall be collected as a part of the general taxes against the property in the district.

(2) The initial levy rate may not exceed the rate limit in subsection (1) of this section or, if applicable, the initial maximum levy rate contained in the ballot proposition approved by the voters to create the district. In subsequent years, the levy rate may be increased as authorized under chapter 84.55 RCW."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Senate Bill No. 5355.

Senators Fairley and Roach spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Senate Bill No. 5355.

The motion by Senator Fairley carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5355 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5355, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5355, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Benton, Brandland and Jacobsen

SENATE BILL NO. 5355, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5360 with the following amendment: 5360-S AMH ENGR H2890.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 41.05 RCW to read as follows:

(1) The community health care collaborative grant program is established to further the efforts of community-based coalitions to increase access to appropriate, affordable health care for Washington residents, particularly employed low-income persons and children in school who are uninsured and underinsured, through local programs addressing one or more of the following: (a) Access to medical treatment; (b) the efficient use of health care resources; and (c) quality of care.

(2) Consistent with funds appropriated for community health care collaborative grants specifically for this purpose, two-year grants may be awarded pursuant to section 2 of this act by the administrator of the health care authority.

(3) The health care authority shall provide administrative support for the program. Administrative support activities may include health care authority facilitation of statewide discussions regarding best practices and standardized performance measures among grantees, or subcontracting for such discussions.

(4) Eligibility for community health care collaborative grants shall be limited to nonprofit organizations established to serve a defined geographic region or organizations with public agency status under the jurisdiction of a local, county, or tribal government. To be eligible, such entities must have a formal collaborative governance structure and decision-making process that includes representation by the following health care providers: Hospitals, public health, behavioral health, community health centers, rural health clinics, and private practitioners that serve low-income persons in the region, unless there are no such providers within the region, or providers decline or refuse to participate or place unreasonable conditions on their participation. The nature and format of the application, and the application procedure, shall be determined by the administrator of the health care authority. At a minimum, each application shall: (a) Identify the geographic region served by the organization; (b) show how the structure and operation of the organization reflects the interests of, and is accountable to, this region and members providing care within this region; (c) indicate the size of the grant being requested, and how the money will be spent; and (d) include sufficient information for an evaluation of the application based on the criteria established in section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) The community health care collaborative grants shall be awarded on a competitive basis based on a determination of which applicant organization will best serve the purposes of the grant program established in section 1 of this act. In making this determination, priority for funding shall be given to the applicants that demonstrate:

(a) The initiatives to be supported by the community health care collaborative grant are likely to address, in a measurable fashion, documented health care access and quality improvement goals aligned with state health policy priorities and needs within the region to be served;

(b) The applicant organization must document formal, active collaboration among key community partners that includes local governments, school districts, large and small businesses, nonprofit organizations, tribal governments, carriers, private health care providers, public health agencies, and community public health and safety networks, as defined in RCW 70.190.010;

(c) The applicant organization will match the community health care collaborative grant with funds from other sources. The health care authority may award grants solely to organizations providing at least two dollars in matching funds for each community health care collaborative grant dollar awarded;

(d) The community health care collaborative grant will enhance the long-term capacity of the applicant organization and its members to serve the region's documented health care access needs, including the sustainability of the programs to be supported by the community health care collaborative grant;

NINETY-EIGHTH DAY, APRIL 19, 2009

(e) The initiatives to be supported by the community health care collaborative grant reflect creative, innovative approaches which complement and enhance existing efforts to address the needs of the uninsured and underinsured and, if successful, could be replicated in other areas of the state; and

(f) The programs to be supported by the community health care collaborative grant make efficient and cost-effective use of available funds through administrative simplification and improvements in the structure and operation of the health care delivery system.

(2) The administrator of the health care authority shall endeavor to disburse community health care collaborative grant funds throughout the state, supporting collaborative initiatives of differing sizes and scales, serving at-risk populations.

(3) Grants shall be disbursed over a two-year cycle, provided the grant recipient consistently provides timely reports that demonstrate the program is satisfactorily meeting the purposes of the grant and the objectives identified in the organization's application. The requirements for the performance reports shall be determined by the health care authority administrator. The performance measures shall be aligned with the community health care collaborative grant program goals and, where possible, shall be consistent with statewide policy trends and outcome measures required by other public and private grant funders.

NEW SECTION. Sec. 3. A new section is added to chapter 41.05 RCW to read as follows:

By July 1st of each even-numbered fiscal year the administrator of the health care authority shall provide the governor and the legislature with an evaluation of the community health care collaborative grant program, describing the organizations and collaborative initiatives funded and the results achieved. The report shall include the impact of the program, results of performance measures, general findings, and recommendations.

NEW SECTION. Sec. 4. The health care authority may adopt rules to implement this act."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5360.

Senators Keiser and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5360.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5360 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5360, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5360, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray,

2009 REGULAR SESSION

Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5360, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5367 with the following amendment: 5367-S AMH CONW ELGE 083

On page 15, line 7, after "after" insert "the"

On page 15, line 7, after "notice" insert "for applications, or at least thirty days prior to the expiration date for renewals" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5367.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5367.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5367 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5367, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5367, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Hewitt, Hobbs, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Tom and Zarelli

Voting nay: Senators Becker, Carrell, Hargrove, Haugen, Holmquist, McCaslin, Morton, Parlette, Roach, Shin, Stevens and Swecker

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5367, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

NINETY-EIGHTH DAY, APRIL 19, 2009

The House has passed SUBSTITUTE SENATE BILL NO. 5368 with the following amendment: 5368-S AMH FIN H2944.1

Beginning on page 4, line 9, strike all of section 5 and insert the following:

"Sec. 5. RCW 82.45.180 and 2006 c 312 s 1 are each amended to read as follows:

(1)(a) For taxes collected by the county under this chapter, the county treasurer shall collect a five-dollar fee on all transactions required by this chapter where the transaction does not require the payment of tax. A total of five dollars shall be collected in the form of a tax and fee, where the calculated tax payment is less than five dollars. Through June 30, 2006, the county treasurer shall place one percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. After June 30, 2006, the county treasurer shall place one and three-tenths percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. For taxes collected by the county under this chapter before July 1, 2006, the county treasurer shall pay over to the state treasurer and account to the department of revenue for the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. For taxes collected by the county under this chapter after June 30, 2006, on a monthly basis the county treasurer shall pay over to the state treasurer the month's transmittal. The month's transmittal must be received by the state treasurer by 12:00 p.m. on the last working day of each month. The county treasurer shall account to the department for the month's transmittal by the twentieth day of the month following the month in which the month's transmittal was paid over to the state treasurer. The state treasurer shall deposit the proceeds in the general fund.

(b) For purposes of this subsection, the definitions in this subsection apply.

(i) "Close of business" means the time when the county treasurer makes his or her daily deposit of proceeds.

(ii) "Month's transmittal" means all proceeds deposited by the county through the close of business of the day that is two working days before the last working day of the month. This definition of "month's transmittal" shall not be construed as requiring any change in a county's practices regarding the timing of its daily deposits of proceeds.

(iii) "Proceeds" means moneys collected and receipted by the county from the taxes imposed by this chapter, less the county's share of the proceeds used to defray the county's costs of collection allowable in (a) of this subsection.

(iv) "Working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as provided in RCW 1.16.050.

(2) For taxes collected by the department of revenue under this chapter, the department shall remit the tax to the state treasurer who shall deposit the proceeds of any state tax in the general fund. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account hereby created in the state treasury. Moneys in the local real estate excise tax account may be spent only for distribution to counties, cities, and towns imposing a tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local real estate excise tax account shall be credited to the local real estate excise tax account and distributed to the counties, cities, and towns monthly. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority. The state treasurer shall make the distribution under this subsection without appropriation.

(3)(a) The real estate excise tax electronic technology account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

2009 REGULAR SESSION

(b) Through June 30, 2010, the county treasurer shall collect an additional five-dollar fee on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer shall remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the real estate excise tax electronic technology account. By the twentieth day of the subsequent month, the state treasurer shall distribute to each county treasurer according to the following formula: Three-quarters of the funds available shall be equally distributed among the thirty-nine counties; and the balance shall be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds shall be placed in a special real estate excise tax electronic technology fund held by the county treasurer to be used exclusively for the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. Funds may be expended to make the system compatible with the automated real estate excise tax system developed by the department and compatible with the processes used in the offices of the county assessor and county auditor. Any funds held in the account that are not expended by the earlier of: July 1, 2015, or at such time that the county treasurer is utilizing an electronic processing and reporting system for real estate excise tax affidavits compatible with the department and compatible with the processes used in the offices of the county assessor and county assessor, revert to the ((county capital improvements fund in accordance with RCW 82.46.010)) special real estate and property tax administration assistance account in accordance with subsection (5)(c) of this section.

(4) Beginning July 1, 2010, through December 31, 2013, the county treasurer shall continue to collect the additional five-dollar fee in subsection (3) of this section on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. During this period, the county treasurer shall remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the annual property revaluation grant account created in section 3 of this act.

(5)(a) The real estate and property tax administration assistance account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

(b) Beginning January 1, 2014, the county treasurer must continue to collect the additional five-dollar fee in subsection (3) of this section on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer shall deposit one-half of this fee in the special real estate and property tax administration assistance account in accordance with (c) of this subsection and remit the balance to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer must place money from this fee in the real estate and property tax administration assistance account. By the twentieth day of the subsequent month, the state treasurer must distribute the funds to each county treasurer according to the following formula: One-half of the funds available must be equally distributed among the thirty-nine counties; and the balance must be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds must be placed in a special real estate and property tax administration assistance account held by the county treasurer to be used for:

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

(i) Maintenance and operation of an annual revaluation system for property tax valuation; and

(ii) Maintenance and operation of an electronic processing and reporting system for real estate excise tax affidavits."
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5368.

Senator Prentice spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5368.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5368 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5368, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5368, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker and Tom

Voting nay: Senators Becker, Carrell, Holmquist, King, McCaslin, Sheldon, Stevens and Zarelli

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5368, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5402 with the following amendment: 5402-S AMH JUDI ADAM 054

On page 5, line 9, after "second" insert "or subsequent"

On page 5, line 11, after "has" strike all material through "for" on line 12 and insert "no more than two convictions of animal cruelty and each conviction is for animal"
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5402.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5402.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5402 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5402, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5402, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senators Hargrove, Honeyford, Schoesler and Swecker

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5402, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5410 with the following amendment: 5410-S AMH ENGR H3320.E

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) The legislature finds that online learning provides tremendous opportunities for students to access curriculum, courses, and a unique learning environment that might not otherwise be available. The legislature supports and encourages online learning opportunities.

(2) However, the legislature also finds that there is a need to assure quality in online learning, both for the programs and the administration of those programs. The legislature is the steward of public funds that support students enrolled in online learning and must ensure an appropriate accountability system at the state level.

(3) Therefore, the legislature intends to take a first step in improving oversight and quality assurance of online learning programs, and intends to examine possible additional steps that may need to be taken to improve financial accountability.

(4) The first step in improving quality assurance is to:

(a) Provide objective information to students, parents, and educators regarding available online learning opportunities, including program and course content, how to register for programs and courses, teacher qualifications, student-to-teacher ratios, prior course completion rates, and other evaluative information;

(b) Create an approval process for multidistrict online providers;

(c) Enhance statewide equity of student access to high quality online learning opportunities; and

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

(d) Require school district boards of directors to develop policies and procedures for student access to online learning opportunities.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Multidistrict online provider" means:

(i) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(ii) A private or nonprofit organization that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(iii) Except as provided in (b) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(b) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225. "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2)(a) "Online course" means a course that:

(i) Is delivered primarily electronically using the internet or other computer-based methods; and

(ii) Is taught by a teacher primarily from a remote location. Students enrolled in an online course may have access to the teacher synchronously, asynchronously, or both.

(b) "Online school program" means a school program that:

(i) Is delivered primarily electronically using the internet or other computer-based methods;

(ii) Is taught by a teacher primarily from a remote location. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;

(iii) Delivers a part-time or full-time sequential program; and

(iv) Has an online component of the program with online lessons and tools for student and data management.

(c) An online course or online school program may be delivered to students at school as part of the regularly scheduled school day. An online course or online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses or programs must comply with RCW 28A.150.262 to qualify for state basic education funding.

NEW SECTION. Sec. 3. (1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving multidistrict online providers; a process for monitoring and if necessary rescinding the approval of courses or programs offered by an online course provider; and an appeals process. The criteria and processes shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest association of accredited schools or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing multidistrict online

providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts.

(3) Initial approval of multidistrict online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before the effective date of this section, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2011, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

NEW SECTION. Sec. 4. The superintendent of public instruction shall create an office of online learning. In the initial establishment of the office, the superintendent shall hire staff who have been employed by the digital learning commons to the extent such hiring is in accordance with state law and to the extent funds are available. The office shall:

(1) Develop and maintain a web site that provides objective information for students, parents, and educators regarding online learning opportunities offered by multidistrict online providers that have been approved in accordance with section 3 of this act. The web site shall include information regarding the online course provider's overall instructional program, specific information regarding the content of individual online courses and online school programs, a direct link to each online course provider's web site, how to register for online learning programs and courses, teacher qualifications, student-to-teacher ratios, course completion rates, and other evaluative and comparative information. The web site shall also provide information regarding the process and criteria for approving multidistrict online providers. To the greatest extent possible, the superintendent shall use the framework of the course offering component of the web site developed by the digital learning commons;

(2) Develop model agreements with approved multidistrict online providers that address standard contract terms and conditions that may apply to contracts between a school district and the approved provider. The purpose of the agreements is to provide a template to assist individual school districts, at the discretion of the district, in contracting with multidistrict online providers to offer the multidistrict online provider's courses and programs to students in the district. The agreements may

NINETY-EIGHTH DAY, APRIL 19, 2009

address billing, fees, responsibilities of online course providers and school districts, and other issues; and

(3) In collaboration with the educational service districts:

(a) Provide technical assistance and support to school district personnel through the educational technology centers in the development and implementation of online learning programs in their districts; and

(b) To the extent funds are available, provide online learning tools for students, teachers, administrators, and other educators.

NEW SECTION. Sec. 5. The superintendent of public instruction shall:

(1) Develop model policies and procedures, in consultation with the Washington state school directors' association, that may be used by school district boards of directors in the development of the school district policies and procedures required in section 6 of this act. The model policies and procedures shall be disseminated to school districts by February 1, 2010;

(2) By December 1, 2009, modify the standards for school districts to report course information to the office of the superintendent of public instruction under RCW 28A.300.500 and for purposes of the standardized transcript to designate if the course was an online course. Both the designation and the reporting standards shall be required beginning with the 2010-11 school year; and

(3) Beginning January 15, 2011, and annually thereafter, submit a report regarding online learning to the state board of education, the governor, and the legislature. The report shall cover the previous school year and include but not be limited to student demographics, course enrollment data, aggregated student course completion and passing rates, and activities and outcomes of course and provider approval reviews.

NEW SECTION. Sec. 6. (1) By August 31, 2010, all school district boards of directors shall develop policies and procedures regarding student access to online courses and online learning programs. The policies and procedures shall include but not be limited to: Student eligibility criteria; the types of online courses available to students through the school district; the methods districts will use to support student success, which may include a local advisor; when the school district will and will not pay course fees and other costs; the granting of high school credit; and a process for students and parents or guardians to formally acknowledge any course taken for which no credit is given. The policies and procedures shall take effect beginning with the 2010-11 school year. School districts shall submit their policies to the superintendent of public instruction by September 15, 2010. By December 1, 2010, the superintendent of public instruction shall summarize the school district policies regarding student access to online courses and submit a report to the legislature.

(2) School districts shall provide students with information regarding online courses that are available through the school district. The information shall include the types of information described in subsection (1) of this section.

(3) When developing local or regional online learning programs, school districts shall incorporate into the program design the approval criteria developed by the superintendent of public instruction under section 3 of this act.

NEW SECTION. Sec. 7. (1) Beginning with the 2011-12 school year, school districts may claim state basic education funding, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:

(a) Offered by a multidistrict online provider approved under section 3 of this act by the superintendent of public instruction;

(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

2009 REGULAR SESSION

(c) Offered by a regional online learning program where courses are jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative program agreement.

(2) Criteria shall be established by the superintendent of public instruction to allow online courses that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have been approved and, if it is a high school course, the course meets Washington high school graduation requirements.

NEW SECTION. Sec. 8. Nothing in this chapter is intended to diminish the rights of students to attend a nonresident school district in accordance with RCW 28A.225.220 through 28A.225.230 for the purposes of enrolling in online courses or programs.

Sec. 9. RCW 28A.150.262 and 2005 c 356 s 2 are each amended to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent student to include students who receive instruction through ~~((digital programs. "Digital programs" means electronically delivered learning that occurs primarily away from the classroom))~~ alternative learning experience online programs. As used in this section, an "alternative learning experience online program" is a set of online courses or an online school program as defined in section 2 of this act that is delivered to students in whole or in part independently from a regular classroom schedule. The superintendent of public instruction has the authority to adopt rules to implement the revised definition beginning with the 2005-2007 biennium for school districts claiming state funding for the programs. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress; the rules shall require districts providing programs under this section to nonresident students to establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, ~~((a digital))~~ an alternative learning experience online program to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital alternative learning experience online programs from its staff;

(3) Requiring each school district offering or contracting to offer ~~((a digital))~~ an alternative learning experience online program to report annually to the superintendent of public instruction on the types of programs and course offerings, and number of students participating;

(4) Requiring completion of a program self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that supervision, monitoring, assessment, and evaluation of the ~~((digital))~~ alternative learning experience online program be provided by certificated instructional staff;

(7) Requiring each school district offering courses or programs to identify the ratio of certificated instructional staff to full-time equivalent students enrolled in such courses or programs, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other

NINETY-EIGHTH DAY, APRIL 19, 2009

technologies. "Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in (~~(a digital)~~) an alternative learning experience online program, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the program or courses. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

(11) Requiring that each student enrolled in the program have direct personal contact with certificated instructional staff at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide (~~(digital)~~) alternative learning experience online learning programs to receive accreditation through the (~~(state accreditation program or through the regional accreditation program)~~) Northwest association of accredited schools or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide (~~(digital)~~) alternative learning experience online learning to provide information to students and parents on whether or not the courses or programs: Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more (~~(digital)~~) alternative learning experience online courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

NEW SECTION. Sec. 10. (1) The office of the superintendent of public instruction shall conduct a review of online courses and programs offered to students during the 2008-09 school year to create a baseline of information about part-time, full-time, and interdistrict student enrollment; how courses and programs are offered and overseen; contract terms and funding arrangements; the fiscal impact on school district levy bases and levy equalization from interdistrict student enrollment; student-to-teacher ratios; course and program completion and success rates; student retention and dropout rates; and how issues such as student assessment, special education, and teacher certification are addressed.

(2) The office of the superintendent of public instruction shall also assess the level of funding provided for online course and program enrollment relative to the basic education general

2009 REGULAR SESSION

allocation, particularly for alternative learning experience programs. The assessment shall include but not be limited to a comparison of staffing ratios and costs, nonemployee-related costs, and facility requirements; and an analysis of the appropriate share of per-student allocations between resident districts and serving districts given the requirements for monthly progress reviews and direct personal contact.

(3) The office of the superintendent of public instruction shall submit a report to the education and fiscal committees of the legislature by December 1, 2009.

NEW SECTION. Sec. 11. Sections 1 through 8 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 12. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5410.
Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5410.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5410 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5410, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5410, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Becker, Carrell, Holmquist, Honeyford, McCaslin, Morton, Roach, Stevens and Swecker

Excused: Senators Benton, Brandland and Jacobsen

SUBSTITUTE SENATE BILL NO. 5410, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5414 with the following amendment: 5414-S.E AMH ENGR H2934.E

Strike everything after the enacting clause and insert the following:

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The legislature finds that a statewide student assessment system should improve and inform classroom instruction, support accountability, and provide useful information to all levels of the educational system, including students, parents, teachers, schools, school districts, and the state. The legislature intends to redesign the current statewide system, in accordance with the recommendations of the Washington assessment of student learning legislative work group, to:

(a) Include multiple assessment formats, including both formative and summative, as necessary to provide information to help improve instruction and inform accountability;

(b) Enable collection of data that allows both statewide and nationwide comparisons of student learning and achievement; and

(c) Be balanced so that the information used to make significant decisions that affect school accountability or student educational progress includes many data points and does not rely on solely the results of a single assessment.

(2) The legislature further finds that one component of the assessment system should be instructionally supportive formative assessments. The key design elements or characteristics of an instructionally supportive assessment must:

(a) Be aligned to state standards in areas that are being assessed;

(b) Measure student growth and competency at multiple points throughout the year in a manner that allows instructors to monitor student progress and have the necessary trend data with which to improve instruction;

(c) Provide rapid feedback;

(d) Link student growth with instructional elements in order to gauge the effectiveness of educators and curricula;

(e) Provide tests that are appropriate to the skill level of the student;

(f) Support instruction for students of all abilities, including highly capable students and students with learning disabilities;

(g) Be culturally, linguistically, and cognitively relevant, appropriate, and understandable to each student taking the assessment;

(h) Inform parents and draw parents into greater participation of the student's study plan;

(i) Provide a way to analyze the assessment results relative to characteristics of the student such as, but not limited to, English language learners, gender, ethnicity, poverty, age, and disabilities;

(j) Strive to be computer-based and adaptive; and

(k) Engage students in their learning.

(3) The legislature further finds that a second component of the assessment system should be a state-administered summative achievement assessment that can be used as a check on the educational system in order to guide state expectations for the instruction of children and satisfy legislative demands for accountability. The key design elements or characteristics of the state administered achievement assessment must:

(a) Be aligned to state standards in areas that are being assessed;

(b) Maintain and increase academic rigor;

(c) Measure student learning growth over years; and

(d) Strengthen curriculum.

(4) The legislature further finds that a third component of the assessment system should include classroom-based assessments, which may be formative, summative, or both. Depending on their use, classroom-based assessments should have the same design elements and characteristics described in this section for formative and summative assessments.

(5) The legislature further finds that to sustain a strong and viable assessment system, preservice and ongoing training should be provided for teachers and administrators on the effective use of different types of assessments.

(6) The legislature further finds that as the statewide data system is developed, data should be collected for all state-required statewide assessments to be used for accountability and to monitor overall student achievement.

(7) The superintendent of public instruction, in consultation with the state board of education, shall begin design and development of an overall assessment system that meets the principles and characteristics described in this section. In designing formative and summative assessments, the superintendent shall solicit bids for the use of computerized adaptive testing methodologies.

(8) Beginning December 1, 2009, and annually thereafter, the superintendent and state board shall jointly report to the legislature regarding the assessment system, including a cost analysis of any changes and costs to expand availability and use of instructionally supportive formative assessments.

NEW SECTION. **Sec. 2.** The superintendent of public instruction shall:

(1) Revise the number of open-ended questions and extended responses in the statewide achievement assessment in grades three through eight and ten to reduce the cost and time of administering the assessment while retaining validity and reliability of the assessment and retaining assessment of critical thinking skills. By December 1, 2009, the superintendent shall report to the legislature regarding the changes, including a cost analysis of the changes; and

(2) Revisit the alternative assessments, the appeals process, including considering authorizing local school districts to determine the outcome of an appeal by a student to demonstrate that he or she has the level of understanding of a content area assessed on the Washington assessment of student learning necessary to meet the state standard but was unable to demonstrate that understanding on the assessment or an alternative assessment, and the Washington alternative assessment system portfolios for students with the most significant cognitive disabilities. By December 1, 2009, the superintendent shall make recommendations to the legislature for improvements.

Sec. 3. RCW 28A.655.066 and 2008 c 163 s 3 are each amended to read as follows:

(1)(a) In consultation with the state board of education, the superintendent of public instruction shall develop statewide end-of-course assessments for high school mathematics that measure student achievement of the state mathematics standards. The superintendent shall take steps to ensure that the language of the assessments is responsive to a diverse student population. The assessments shall be implemented statewide in the 2010-11 school year.

(b) The superintendent shall develop end-of-course assessments ((in algebra I, geometry, integrated mathematics I, and integrated mathematics II. The superintendent shall make the algebra I and integrated mathematics I end-of-course assessments available to school districts on an optional basis in the 2009-10 school year. The end-of-course assessments in algebra I, geometry, integrated mathematics I, and integrated mathematics II shall be implemented statewide in the 2010-11 school year)) for the first year of high school mathematics that include the standards common to algebra I and integrated mathematics I and for the second year of high school mathematics that include the standards common to geometry and integrated mathematics II. The assessments under this subsection (1)(b) shall be used to demonstrate that a student meets the state standard on the mathematics content area of the high school Washington assessment of student learning for purposes of RCW 28A.655.061.

(c) The superintendent of public instruction shall also develop subtests for the end-of-course assessments that measure standards for the first two years of high school mathematics that are unique to algebra I, integrated mathematics I, geometry, and integrated mathematics II. The results of the subtests shall be reported at the student, teacher, school, and district level.

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

(2) For the graduating ~~((class of 2013))~~ classes of 2013 and 2014 and for purposes of the certificate of academic achievement under RCW 28A.655.061, a student may use: (a) ~~Results from the ((algebra I end-of-course assessment plus the geometry end-of-course assessment or results from the integrated mathematics I end-of-course assessment plus the integrated mathematics II end-of-course assessment may be used))~~ end-of-course assessment for the first year of high school mathematics plus the results from the end-of-course assessment for the second year of high school mathematics; or (b) results from the comprehensive mathematics assessment to demonstrate that a student meets the state standard on the mathematics content area of the high school Washington assessment of student learning.

(3) Beginning with the graduating class of ~~((2014))~~ 2015 and for purposes of the certificate of academic achievement under RCW 28A.655.061, the mathematics content area of the Washington assessment of student learning shall be assessed using ~~((either the algebra I end-of-course assessment plus the geometry end-of-course assessment or the integrated mathematics I end-of-course assessment plus the integrated mathematics II end-of-course assessment))~~ the end-of-course assessment for the first year of high school mathematics plus the end-of-course assessment for the second year of high school mathematics. All of the objective alternative assessments available to students under RCW 28A.655.061 and 28A.655.065 shall be available to any student who has taken the sequence of end-of-course assessments once but does not meet the state mathematics standard on the sequence of end-of-course assessments.

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

NEW SECTION. Sec. 4. (1) The office of the superintendent of public instruction, in consultation with the state board of education and the professional educator standards board, shall develop an implementation plan and strategies to ensure that all students have the opportunity to learn the new science and mathematics standards. The plan must include the following components:

- (a) Strategies to help districts improve their alignment of curriculum and teacher instruction to the new standards;
- (b) Identification of effective intervention programs and strategies for struggling students; and
- (c) An assessment of the feasibility of implementing the current timelines for students to demonstrate that they have met state mathematics and science standards on the statewide high school assessments.

(2) The office of the superintendent of public instruction, in consultation with the state board of education, shall also recommend whether to use a comprehensive assessment or end-of-course assessments, including the costs for developing and implementing these assessments, for the high school assessment for students to demonstrate that they have achieved proficiency on the state's science standards.

(3) The office of the superintendent of public instruction shall report to the governor and legislature by December 1, 2009, on the implementation plan and the recommended method of assessment for science.

Sec. 5. RCW 28A.305.215 and 2008 c 274 s 2 and 2008 c 172 s 2 are each reenacted and amended to read as follows:

(1) The activities in this section revise and strengthen the state learning standards that implement the goals of RCW 28A.150.210, known as the essential academic learning requirements, and improve alignment of school district curriculum to the standards.

(2) The state board of education shall be assisted in its work under subsections (3), (4), and (5) of this section by: (a) An expert national consultant in each of mathematics and science retained by the state board; and (b) the mathematics and science

advisory panels created under RCW 28A.305.219, as appropriate, which shall provide review and formal comment on proposed recommendations to the superintendent of public instruction and the state board of education on new revised standards and curricula.

(3) By September 30, 2007, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in mathematics. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of:

(i) Standards used in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment;

(ii) College readiness standards;

(iii) The national council of teachers of mathematics focal points and the national assessment of educational progress content frameworks; and

(iv) Standards used by three to five other states, including California, and the nation of Singapore; and

(c) Consideration of information presented during public comment periods.

(4)(a) By February 29, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for mathematics and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4).

(b) The state board of education shall direct an expert national consultant in mathematics to:

(i) Analyze the February 2008 version of the revised standards, including a comparison to exemplar standards previously reviewed under this section;

(ii) Recommend specific language and content changes needed to finalize the revised standards; and

(iii) Present findings and recommendations in a draft report to the state board of education.

(c) By May 15, 2008, the state board of education shall review the consultant's draft report, consult the mathematics advisory panel, hold a public hearing to receive comment, and direct any subsequent modifications to the consultant's report. After the modifications are made, the state board of education shall forward the final report and recommendations to the superintendent of public instruction for implementation.

(d) By July 1, 2008, the superintendent of public instruction shall revise the mathematics standards to conform precisely to and incorporate each of the recommendations of the state board of education under ~~((subsection (4))~~(c) of this ~~((section))~~ subsection and submit the revisions to the state board of education.

(e) By July 31, 2008, the state board of education shall either approve adoption by the superintendent of public instruction of the final revised standards as the essential academic learning requirements and grade level expectations for mathematics, or develop a plan for ensuring that the recommendations under ~~((subsection (4))~~(c) of this ~~((section))~~ subsection are implemented so that final revised mathematics standards can be adopted by September 25, 2008.

(5) By June 30, 2008, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in science. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

NINETY-EIGHTH DAY, APRIL 19, 2009

(b) Study of standards used by three to five other states and in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment; and

(c) Consideration of information presented during public comment periods.

(6) By December 1, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for science and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2009 legislative session.

(7)(a) Within six months after the standards under subsection (4) of this section are adopted, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans.

(b) Within two months after the presentation of the recommended curricula, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(c) By ~~((May 15))~~ June 30, 2009, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic science curricula each for elementary~~((:))~~ and middle~~((-and high))~~ school grade spans and not more than three recommendations for each of the major high school courses within the following science domains: Earth and space science, physical science, and life science.

(d) ~~((By June 30, 2009))~~ Within two months after the presentation of the recommended curricula, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended science curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(e) In selecting the recommended curricula under this subsection (7), the superintendent of public instruction shall provide information to the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, and seek the advice of the appropriate panel regarding the curricula that shall be included in the recommendations.

(f) The recommended curricula under this subsection (7) shall align with the revised essential academic learning requirements and grade level expectations. In addition to the recommended basic curricula, appropriate diagnostic and supplemental materials shall be identified as necessary to support each curricula.

(g) Subject to funds appropriated for this purpose and availability of the curricula, at least one of the curricula in each grade span and in each of mathematics and science shall be available to schools and parents online at no cost to the school or parent.

(8) By December 1, 2007, the state board of education shall revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics, one of which may be a career and technical course equivalent in mathematics, and prescribe the mathematics content in the three required credits.

(9) Nothing in this section requires a school district to use one of the recommended curricula under subsection (7) of this

2009 REGULAR SESSION

section. However, the statewide accountability plan adopted by the state board of education under RCW 28A.305.130 shall recommend conditions under which school districts should be required to use one of the recommended curricula. The plan shall also describe the conditions for exception to the curriculum requirement, such as the use of integrated academic and career and technical education curriculum. Required use of the recommended curricula as an intervention strategy must be authorized by the legislature as required by RCW 28A.305.130(4)(e) before implementation.

(10) The superintendent of public instruction shall conduct a comprehensive survey of the mathematics curricula being used by school districts at all grade levels and the textbook and curriculum purchasing cycle of the districts and report the results of the survey to the education committees of the legislature by November 15, 2008.

NEW SECTION. Sec. 6. Section 5 of 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."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5414.

Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5414.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5414 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5414, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5414, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Benton, Brandland and Jacobsen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5414, as amended by the House, 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 2:36 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

NINETY-EIGHTH DAY, APRIL 19, 2009
EVENING SESSION

2009 REGULAR SESSION

The Senate was called to order at 4:54 p.m. by President Owen.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1961,
HOUSE BILL NO. 2132,
HOUSE BILL NO. 2165,
ENGROSSED HOUSE BILL NO. 2279,
ENGROSSED HOUSE BILL NO. 2285,

MESSAGE FROM THE HOUSE

SIGNED BY THE PRESIDENT

April 18, 2009

MR. PRESIDENT:

The President signed:

The Speaker has signed the following:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1002,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1004,
SECOND SUBSTITUTE HOUSE BILL NO. 1025,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1033,
SUBSTITUTE HOUSE BILL NO. 1038,
HOUSE BILL NO. 1048,
HOUSE BILL NO. 1050,
SECOND SUBSTITUTE HOUSE BILL NO. 1052,
SUBSTITUTE HOUSE BILL NO. 1071,
HOUSE BILL NO. 1120,
HOUSE BILL NO. 1199,
SUBSTITUTE HOUSE BILL NO. 1283
SUBSTITUTE HOUSE BILL NO. 1286,
HOUSE BILL NO. 1355,
HOUSE BILL NO. 1361,
HOUSE BILL NO. 1487,
SECOND SUBSTITUTE HOUSE BILL NO. 1580,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1664,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1847,
HOUSE BILL NO. 1888,
SECOND SUBSTITUTE HOUSE BILL NO. 1938,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1954,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1961,
HOUSE BILL NO. 2132,
HOUSE BILL NO. 2165,
ENGROSSED HOUSE BILL NO. 2279,
ENGROSSED HOUSE BILL NO. 2285,
and the same are herewith transmitted.

SENATE BILL NO. 5008,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5011,
SENATE BILL NO. 5038,
SUBSTITUTE SENATE BILL NO. 5040,
SUBSTITUTE SENATE BILL NO. 5042,
SUBSTITUTE SENATE BILL NO. 5056,
SENATE BILL NO. 5060,
SENATE BILL NO. 5153,
SUBSTITUTE SENATE BILL NO. 5172,
SENATE BILL NO. 5173,
SUBSTITUTE SENATE BILL NO. 5177,
SENATE BILL NO. 5277,

MOTION

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

SECOND READING

SENATE BILL NO. 6169, by Senator Prentice

Enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency.

MOTION

On motion of Senator Prentice, Substitute Senate Bill No. 6169 was substituted for Senate Bill No. 6169 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli be adopted.

On page 2, line 25, after "taxpayer" strike the remainder of the line.

Senators Zarelli and Prentice 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 Zarelli on page 2, line 25 to Substitute Senate Bill No. 6169.

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

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute Senate Bill No. 6169 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

PARLIAMENTARY INQUIRY

Senator Tom: "Did we need to say 'Engrossed Substitute' since we adopted the amendment?"

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1002,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1004,
SECOND SUBSTITUTE HOUSE BILL NO. 1025,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1033,
SUBSTITUTE HOUSE BILL NO. 1038,
HOUSE BILL NO. 1048,
HOUSE BILL NO. 1050,
SECOND SUBSTITUTE HOUSE BILL NO. 1052,
SUBSTITUTE HOUSE BILL NO. 1071,
HOUSE BILL NO. 1120,
HOUSE BILL NO. 1199,
SUBSTITUTE HOUSE BILL NO. 1283,
SUBSTITUTE HOUSE BILL NO. 1286,
SECOND SUBSTITUTE HOUSE BILL NO. 1355,
HOUSE BILL NO. 1361,
HOUSE BILL NO. 1487,
SECOND SUBSTITUTE HOUSE BILL NO. 1580,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1664,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1847,
HOUSE BILL NO. 1888,
SECOND SUBSTITUTE HOUSE BILL NO. 1938,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1954,

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

REPLY BY THE PRESIDENT

President Owen: "It is engrossed, yes. We will assume even if you don't."

Senators Tom and Zarelli 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. 6169.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6169 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

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

Voting nay: Senators McCaslin, Morton and Sheldon

Excused: Senators Benton and Brandland

ENGROSSED SUBSTITUTE SENATE BILL NO. 6169, 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. 6161, by Senator Prentice

Relating to the actuarial funding of pension systems. Revised for 1st Substitute: Addressing the actuarial funding of pension systems.

MOTIONS

On motion of Senator Prentice, Substitute Senate Bill No. 6161 was substituted for Senate Bill No. 6161 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. 6161 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.

Senator Zarelli spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6161.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6161 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

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

Voting nay: Senators Becker, Carrell, Delvin, Hewitt,

Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Benton and Brandland

SUBSTITUTE SENATE BILL NO. 6161, 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: "Thank you Mr. President. Yesterday in the prayer the Senator ask for divine guidance for two more weeks. I just wanted to report that yesterday I stuck my head out the door of the Cherberg Building. One of the lobbyist out there observed that and saw that I didn't see my shadow and predicted three more weeks of session."

SECOND READING

HOUSE BILL NO. 2328, by Representatives Linville and Ericks

Reducing the administrative cost of state government.

The measure was read the second time.

MOTION

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

On page 4, after line 37, insert the following:

"NEW SECTION. Sec. 5. (1) Within this section, "sensory disability" means a sensory condition that materially limits, contributes to limiting, or, if not corrected or accommodated, will probably result in limiting an individual's activities or functioning.

(2) The department of personnel shall adopt rules that authorize state agencies to provide allowances to employees with sensory disabilities who must attend training necessary to attain a new service animal. The employee's absence must be treated in the same manner as that granted to employees who are absent to attend training that supports or improves their job performance, except that the employee shall not be eligible for reimbursement under RCW 43.03.050 or 43.03.060. The department of personnel shall adopt rules as necessary to implement this chapter.

(3) If the necessity to attend training for a new service animal is foreseeable and the training will cause the employee to miss work, the employee shall provide the employer with not less than thirty days' notice, before the date the absence is to begin, of the employee's impending absence. If the date of the training requires the absence to begin in less than thirty days, the employee shall provide notice as is practicable.

(4) An agency may require that a request to attend service animal training be supported by a certification issued by the relevant training organization. The employee must provide, in a timely manner, a copy of the certification to the agency. Certification provided under this section is sufficient if it states: (a) The date on which the service animal training session is scheduled to commence; and (b) the session's duration.

NEW SECTION. Sec. 6. Section 5 of this act constitutes a new chapter in Title 49 RCW."

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

The President declared the question before the Senate to be

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

the adoption of the committee amendment by the Committee on Ways & Means to House Bill No. 2328.

The motion by Senator Tom carried and the committee 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 "(uncodified);" insert "adding a new chapter to Title 49 RCW;"

MOTION

On motion of Senator Tom, the rules were suspended, House Bill No. 2328 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 2328 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2328 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Benton and Brandland

HOUSE BILL NO. 2328 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5470, by Senators Stevens, Carrell, Parlette, Swecker, McCaslin, Hewitt, Schoesler, King, Holmquist, Pflug, Roach, Delvin and Benton

Providing sales and use tax exemptions for senior residents of qualified low-income senior housing facilities.

The measure was read the second time.

MOTION

On motion of Senator Stevens, the rules were suspended, Senate Bill No. 5470 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5470.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5470 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Brown

Excused: Senators Benton and Brandland

SENATE BILL NO. 5470, 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. 6170, by Senators Hobbs and Prentice

Concerning environmental tax incentives.

MOTION

On motion of Senator Hobbs, Substitute Senate Bill No. 6170 was substituted for Senate Bill No. 6170 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 2, line 21, after "energy" strike "has the same meaning as in RCW 19.285.030" and insert "includes: (i) Byproducts of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste"

On page 13, at the beginning of line 5, insert "forest derived"

On page 13, beginning on line 12, after "(3)" strike all material through "(4)" on line 21

On page 13, line 25, after "use of" insert "forest derived"

Beginning on page 13, line 28, after "(3)" strike all material through "(4)" on page 14, line 1

Senator Hobbs 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 Hobbs on page 2, line 21 to Substitute Senate Bill No. 6170.

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

MOTION

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

On motion of Senator Hobbs, the rules were suspended, Engrossed Substitute Senate Bill No. 6170 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6170.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6170 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Delvin, Eide, Franklin, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Carrell, Fairley, Fraser, Hewitt, Holmquist, King, McCaslin, Parlette, Pflug, Schoesler, Stevens and Zarelli

Excused: Senators Benton and Brandland

ENGROSSED SUBSTITUTE SENATE BILL NO. 6170, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5548 with the following amendment: 5548 AMH LGH H2968.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

(4) Shall provide a credit for the value of any dedication of land for public transit infrastructure improvements requested by the legislative authority of the applicable county, city, or town. A credit may only be provided under this subsection (4) if the public transit infrastructure improvement improves system capacity and the long-term operational costs for the new public transit infrastructure have been identified and secured for six or more years. Credits provided under this subsection (4) may not exceed the value of the impact fees for public streets and roads imposed on the applicable development;

(5) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

~~((5))~~ (6) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

~~((6))~~ (7) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development;

~~((7))~~ (8) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5548 and ask the House to recede therefrom.

Senators Haugen and Swecker spoke in favor of the motion.

MOTION

Senator Pflug moved that the Senate concur in the House amendment(s) to Senate Bill No. 5548.

Senator Pflug spoke in favor of the motion.

Senators Haugen and Swecker spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Pflug that the Senate concur in the House amendment(s) to Senate Bill No. 5548.

The motion by Senator Pflug failed and the Senate did not concur in the House amendment(s) to Senate Bill No. 5548 by voice vote.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5548 and ask the House to recede therefrom.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5548 and asked the House to recede therefrom by voice vote.

NINETY-EIGHTH DAY, APRIL 19, 2009
 MESSAGE FROM THE HOUSE

2009 REGULAR SESSION

April 9, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5554 with the following amendment: 5554 AMH HASE CLYN 115
 On page 4, line 34, strike "and" and insert "((and))"
 On page 5, line 3, after "program" insert "; and
(13) The job skills program provides training that leads to transferable skills that are interchangeable among different jobs, employers, or workplaces"
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5554 and ask the House to recede therefrom.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kastama that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5554 and ask the House to recede therefrom.

The motion by Senator Kastama carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5554 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5684 with the following amendment: 5684-S AMH TR H2942.1
 Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 47.01 RCW to read as follows:

(1) For highway construction projects where the department considers agricultural lands of long-term commercial significance, as defined in RCW 36.70A.030, in reviewing and selecting sites to meet environmental mitigation requirements under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) and chapter 43.21C RCW, the department shall, to the greatest extent possible, consider using public land first.

(2) If public lands are not available that meet the required environmental mitigation needs, the department may use other sites while making every effort to avoid any net loss of agricultural lands that have a designation of long-term commercial significance.

(3) Nothing in this section shall be construed to restrict the department from meeting environmental mitigation requirements, described in subsection (1) of this section, by the purchase of credits from a wetland mitigation bank certified for the sale of such credits, including but not limited to credits for lands that were or are agricultural lands of long-term commercial significance."

Correct the title.
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to concur in

the House amendment(s) to Substitute Senate Bill No. 5684 and ask the House to recede therefrom.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5684 and ask the House to recede therefrom.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5684 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5760 with the following amendment: 5760-S AMH ENGR H3117.E

On page 1, beginning on line 12, after "process," strike "design-bid-build process,"

On page 2, beginning on line 7, after "thereto," strike "does not include state-appropriated funds" and insert "is provided with federal funds through the American recovery and reinvestment act of 2009"

On page 2, beginning on line 16, after "project" strike "does not include state-appropriated funds" and insert "is federal funds through the American recovery and reinvestment act of 2009"

On page 3, after line 4, insert the following:

"(3) A contractor may appeal the university's determination that the contractor does not meet the qualifications criteria to bid on a project. Appeals must be made in writing and submitted to the board within seven days. The board shall resolve an appeal within forty-five days of receipt of the appeal and shall send a written determination of its decision to the party making the appeal."

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

On page 3, beginning on line 5, strike all of subsections (3) and (4) and insert the following:

"(3) This section expires June 30, 2013. The University of Washington shall report on the status and performance of projects using federal funds through the American recovery and reinvestment act of 2009 to fiscal committees of the legislature and the capital projects review board by December 1, 2010."

On page 3, after line 16, insert the following:

"**Sec. 2.** RCW 28B.20.140 and 1969 ex.s. c 223 s 28B.20.140 are each amended to read as follows:

(1) The board of regents shall enter into such contracts with one or more contractors for the erection and construction of university buildings or improvements thereto as in their judgment shall be deemed for the best interest of the university; subject to subsections (2) and (3) of this section, such contract or contracts shall be let after public notice and under such regulations as shall be established by said board or as otherwise provided by law to the person or persons able to perform the same on the most advantageous terms: PROVIDED, That in all cases said board shall require from contractors a good and sufficient bond for the faithful performance of the work, and the full protection of the state against mechanics' and other liens: AND PROVIDED FURTHER, That the board shall not have the power to enter into any contract for the erection of any buildings or improvements which shall bind said board to pay out any sum of money in excess of the amount provided for said purpose.

(2) The board of regents must comply with the requirements of chapter 39.10 RCW when using any alternative contracting procedure authorized pursuant to chapter 39.10 RCW.

(3) Prior to adoption of any alternative public works contracting procedure not authorized in chapter 39.10 RCW, the board of regents must submit the proposed contracting

NINETY-EIGHTH DAY, APRIL 19, 2009

procedure to the capital projects advisory review board established under chapter 39.10 RCW for evaluation and approval pursuant to RCW 39.10.230. Final adoption and use of any alternative public works contracting procedure is contingent on approval by the capital projects advisory review board.

Sec. 3. RCW 39.10.200 and 2007 c 494 s 1 are each amended to read as follows:

The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria. The purpose of this chapter is to authorize the use of certain supplemental alternative public works contracting procedures, to prescribe appropriate requirements to ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures. It is the intent of the legislature to establish that, unless otherwise specifically provided for in law, public bodies may use only those alternative public works contracting procedures either specifically authorized in this chapter, subject to the requirements of this chapter, or those approved for use on a demonstration project by the capital projects advisory review board.

Sec. 4. RCW 39.10.230 and 2007 c 494 s 103 are each amended to read as follows:

The board has the following powers and duties:

(1) Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods;

(2) Evaluate the use of existing contracting procedures (~~and potential future use of~~);

(3) Evaluate other alternative contracting procedures including competitive negotiation contracts, for: (a) Potential future use; and (b) approval to use as a demonstration project;

(4) Submit a report to the appropriate committees of the legislature evaluating any alternative contracting procedure that is not authorized under this chapter and has been submitted to the board for its review or approval. The report must:

(a) Include a recommendation regarding use of the alternative contracting procedure by other public bodies; and

(b) Be submitted by December of the next regular legislative session following completion of the evaluation;

~~((3))~~ (5) Appoint members of the committee; and

~~((4))~~ (6) Develop and administer questionnaires designed to provide quantitative and qualitative data on alternative public works contracting procedures on which evaluations are based.

Sec. 5. RCW 39.10.210 and 2007 c 494 s 101 are each amended to read as follows:

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

(1) "Alternative public works contracting procedure" means the design-build, general contractor/construction manager, and job order contracting procedures authorized in RCW 39.10.300, 39.10.340, and 39.10.420, respectively. It also means other contracting procedures submitted to the board under RCW 39.10.230 for approval to use as a demonstration project.

(2) "Board" means the capital projects advisory review board.

(3) "Committee" means the project review committee.

(4) "Design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

2009 REGULAR SESSION

(5) "Total contract cost" means the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, and the percent fee on the negotiated maximum allowable construction cost.

(6) "General contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to provide services during the design phase and to act as construction manager and general contractor during the construction phase.

(7) "Job order contract" means a contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

(8) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

(9) "Maximum allowable construction cost" means the maximum cost of the work to construct the project including a percentage for risk contingency, negotiated support services, and approved change orders.

(10) "Negotiated support services" means items a general contractor would normally manage or perform on a construction project including, but not limited to surveying, hoisting, safety enforcement, provision of toilet facilities, temporary heat, cleanup, and trash removal.

(11) "Percent fee" means the percentage amount to be earned by the general contractor/construction manager as overhead and profit.

(12) "Public body" means any general or special purpose government, including but not limited to state agencies, institutions of higher education, counties, cities, towns, ports, school districts, and special purpose districts.

(13) "Certified public body" means a public body certified to use design-build or general contractor/construction manager contracting procedures, or both, under RCW 39.10.270.

(14) "Public works project" means any work for a public body within the definition of "public work" in RCW 39.04.010.

(15) "Total project cost" means the cost of the project less financing and land acquisition costs.

(16) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor. The prices may include: All the costs of materials; labor; equipment; overhead, including bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.

(17) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

Sec. 6. RCW 43.131.408 and 2007 c 494 s 507 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2014:

(1) RCW 39.10.200 and section 3 of this act, 2007 c 494 s 1, & 1994 c 132 s 1;

(2) RCW 39.10.210 and section 5 of this act, 2007 c 494 s 101, & 2005 c 469 s 3;

(3) RCW 39.10.220 and 2007 c 494 s 102 & 2005 c 377 s 1;

(4) RCW 39.10.230 and section 4 of this act, 2007 c 494 s 103, & 2005 c 377 s 2;

(5) RCW 39.10.240 and 2007 c 494 s 104;

(6) RCW 39.10.250 and 2007 c 494 s 105;

(7) RCW 39.10.260 and 2007 c 494 s 106;

(8) RCW 39.10.270 and 2007 c 494 s 107;

(9) RCW 39.10.280 and 2007 c 494 s 108;

(10) RCW 39.10.290 and 2007 c 494 s 109;

(11) RCW 39.10.300 and 2007 c 494 s 201, 2003 c 352 s 2, 2003 c 300 s 4, 2002 c 46 s 1, & 2001 c 328 s 2;

(12) RCW 39.10.310 and 2007 c 494 s 202 & 1994 c 132 s 8;

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

- (13) RCW 39.10.320 and 2007 c 494 s 203 & 1994 c 132 s 7;
- (14) RCW 39.10.330 and 2007 c 494 s 204;
- (15) RCW 39.10.340 and 2007 c 494 s 301, 2003 c 352 s 3, 2003 c 300 s 5, 2002 c 46 s 2, & 2001 c 328 s 3;
- (16) RCW 39.10.350 and 2007 c 494 s 302;
- (17) RCW 39.10.360 and 2007 c 494 s 303;
- (18) RCW 39.10.370 and 2007 c 494 s 304;
- (19) RCW 39.10.380 and 2007 c 494 s 305;
- (20) RCW 39.10.390 and 2007 c 494 s 306;
- (21) RCW 39.10.400 and 2007 c 494 s 307;
- (22) RCW 39.10.410 and 2007 c 494 s 308;
- (23) RCW 39.10.420 and 2007 c 494 s 401 & 2003 c 301 s 1;

- (24) RCW 39.10.430 and 2007 c 494 s 402;
- (25) RCW 39.10.440 and 2007 c 494 s 403;
- (26) RCW 39.10.450 and 2007 c 494 s 404;
- (27) RCW 39.10.460 and 2007 c 494 s 405;
- (28) RCW 39.10.470 and 2005 c 274 s 275 & 1994 c 132 s 10;

- (29) RCW 39.10.480 and 1994 c 132 s 9;
- (30) RCW 39.10.490 and 2007 c 494 s 501 & 2001 c 328 s 5;

- (31) RCW 39.10.500 and 2007 c 494 s 502;
- (32) RCW 39.10.510 and 2007 c 494 s 503;
- (33) RCW 39.10.900 and 1994 c 132 s 13;
- (34) RCW 39.10.901 and 1994 c 132 s 14; and
- (35) RCW 39.10.903 and 2007 c 494 s 510."

Renumber the remaining section consecutively.

On page 3, beginning on line 24, after "process," strike "design-bid-build process,"

On page 4, beginning on line 1, after "thereto," strike "does not include state-appropriated funds" and insert "is provided with federal funds through the American recovery and reinvestment act of 2009"

On page 4, beginning on line 10, after "project" strike "does not include state-appropriated funds" and insert "is federal funds through the American recovery and reinvestment act of 2009"

On page 4, after line 36, insert the following:

"(3) A contractor may appeal the university's determination that the contractor does not meet the qualifications criteria to bid on a project. Appeals must be made in writing and submitted to the board within seven days. The board shall resolve an appeal within forty-five days of receipt of the appeal and shall send a written determination of its decision to the party making the appeal."

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

Beginning on page 4, line 37, strike all of subsections (3) and (4) and insert the following:

"(3) This section expires June 30, 2013. Washington State University shall report on the status and performance of projects using federal funds through the American recovery and reinvestment act of 2009 to fiscal committees of the legislature and the capital projects review board by December 1, 2010."

On page 5, after line 10, insert the following:

"Sec. 3. RCW 28B.30.700 and 1985 c 390 s 41 are each amended to read as follows:

(1) The board of regents of Washington State University is empowered, in accordance with the provisions of RCW 28B.30.700 through 28B.30.780, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature, subject to subsections (2) and (3) of this section, for the use of the university and to finance the payment thereof by bonds payable out of a special fund from revenues hereafter derived from the payment of building fees, gifts, bequests or grants, and such additional funds as the legislature may provide.

(2) The board of regents must comply with the requirements of chapter 39.10 RCW when using any alternative contracting procedure authorized pursuant to chapter 39.10 RCW.

(3) Prior to adoption of any alternative public works contracting procedure not authorized in chapter 39.10 RCW, the board of regents must submit the proposed contracting procedure to the capital projects advisory review board established under chapter 39.10 RCW for evaluation and approval pursuant to RCW 39.10.230. Final adoption and use of any alternative public works contracting procedure is contingent on approval by the capital projects advisory review board."

Correct the title and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5760 and ask the House to recede therefrom.

Senator Prentice spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Prentice that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5760 and ask the House to recede therefrom.

The motion by Senator Prentice carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5760 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 17, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5840 with the following amendment: 5840-S.E AMH ENGR H3356.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.285.030 and 2007 c 1 s 3 are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3) "Biomass energy" includes: (a) Byproducts of pulping and wood manufacturing process; (b) animal waste; (c) solid organic fuels from wood; (d) forest or field residues; (e) wooden demolition or construction debris; (f) food waste; (g) liquors derived from algae and other sources; (h) dedicated energy crops; (i) biosolids; and (j) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(4) "Commission" means the Washington state utilities and transportation commission.

((4)) (5) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

((5)) (6) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

NINETY-EIGHTH DAY, APRIL 19, 2009

~~((6))~~ (7) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

~~((7))~~ (8) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

~~((8))~~ (9) "Department" means the department of community, trade, and economic development or its successor.

~~((9))~~ (10) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than ~~(five)~~ seven megawatts.

~~((10))~~ (11) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource ~~((other than fresh water))~~ that commences operation after March 31, 1999, where ~~((--(7)))~~ the facility is located ~~((in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services))~~ within the geographic boundary of the western electricity coordinating council or its successor entity; ~~((or))~~

(b) ~~((Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments))~~ (i) Electricity from a hydroelectric generating facility with an installed generating capacity of five megawatts or less that discharges the water it uses for power generation into either:

(A) A conduit, with the water flowing directly to a point of agricultural, municipal, or industrial consumption; or

(B) A natural water body if a quantity of water equal to or greater than the quantity discharged from the hydroelectric facility is withdrawn from the natural water body on which the hydroelectric generating facility is located, unless that consumption would occur for agricultural, municipal, or industrial consumption purposes even if hydroelectric generating facilities were not installed;

(ii) Electricity from a hydroelectric generating facility must not come from a dam or weir that creates more than intraday storage of water;

(iii) Electricity from a hydroelectric generating facility must be certified by a nationally recognized organization that certifies hydroelectric facilities as low-impact hydroelectric;

(c) Electricity from a biomass energy powered generation facility located in Washington that commenced operation before March 31, 1999, that is: (i) Owned by a qualifying utility as of the effective date of this section; or (ii) subject to a maximum of twenty-five percent of the electrical output delivered to a qualifying utility, owned by an entity other than a qualifying utility as of the effective date of this section; or

(d) Electricity from an existing generation facility powered by a fresh water renewable resource that commenced operation before March 31, 1999.

~~((11))~~ (12) "Intraday storage of water" means the amount of water that is retained by a dam or weir over a twenty-four hour period that is in excess of normal stream flow.

(13) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

~~((12))~~ (14) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

~~((13))~~ (15) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants

to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases. For an anaerobic digester, its nonpower attributes may be separated into avoided emissions of carbon dioxide, and other greenhouse gases, and into renewable energy credits.

~~((14))~~ (16) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

~~((15))~~ (17) "Public facility" has the same meaning as defined in RCW 39.35C.010.

~~((16))~~ (18) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

~~((17))~~ (19) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource ~~((where the generation facility is not powered by fresh water)),~~ the certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

~~((18))~~ (20) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth ~~((or first-growth))~~ forests where the clearing occurred after December 7, 2006; ~~((and))~~ or (i) biomass energy ~~((based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include (i) wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor byproduct from paper production; (iii) wood from old growth forests; or (iv) municipal solid waste)).~~

~~((19))~~ (21) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

~~((20))~~ (22) "Year" means the twelve-month period commencing January 1st and ending December 31st.

Sec. 2. RCW 19.285.040 and 2007 c 1 s 4 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) ~~((Beginning))~~ By January 1, 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial acquisition target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period. A qualifying utility may not use incremental electricity produced as a result of efficiency improvements to hydroelectric generation facilities to meet its biennial conservation acquisition target if the improvements were used to meet its targets under subsection (2)(a) of this section.

(c) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility ~~((has a useful thermal energy output of no less than thirty-three percent of the total energy output))~~ is designed to have a projected overall thermal conversion efficiency of at least seventy percent. For the purposes of this section, "overall thermal conversion efficiency" means the output of electricity plus usable heat divided by fuel input. The reduction in load due to high-efficiency cogeneration shall be ~~((i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii))~~ counted towards meeting the biennial conservation target in the same manner as other production conservation savings.

(d) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(e) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least ~~((nine))~~ ten and twenty-five one-hundredths of one percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least ~~((fifteen))~~ sixteen and twenty-five one-hundredths of one percent of its load by January 1, 2020, and each year thereafter.

(b) It must be the goal of the state for each qualifying utility to use eligible renewable resources or acquire equivalent renewable energy credits or a combination of both to meet an annual renewable resource goal of at least twenty percent of its load by January 1, 2025, and each year thereafter.

(c) Except as provided in (k) of this subsection, a qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

~~((e))~~ (d) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

~~((d))~~ (e) A qualifying utility with annual sales of less than two million megawatt hours is considered in compliance with an annual target in (a) of this subsection if: (i) In any given target year its load growth, measured as load served in the target year compared to the utility's annual average load served in 2010 and 2011, is less than the target in (a) of this subsection for that year; and (ii) the utility meets one hundred percent of any increase in load for that target year with eligible renewable resources or renewable energy credits.

(f) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

~~((e))~~ (g) The requirements of this section may be met for any given target year with renewable energy credits produced during that year, the preceding two years, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

~~((f))~~ (h) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; ~~((or))~~

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090; or

(iii) Efficiency improvements to hydroelectric generation facilities whose energy output is marketed by the Bonneville power administration that is attributable to any other utility other than the qualifying utility.

~~((g))~~ (i) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

~~((h))~~ (j)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

~~((f))~~ (k) A qualifying utility that acquires solar energy located in Washington or meeting the definition of distributed generation may count that acquisition at four times its base value, or six times its base value where the energy is produced using solar inverters and modules manufactured in Washington state, provided the qualifying utility: (i) Owns or has contracted for the solar energy generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(l) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

Sec. 3. RCW 19.285.070 and 2007 c 1 s 7 are each amended to read as follows:

(1) On or before June 1, 2012, and annually thereafter, each qualifying utility shall report to the department on its progress in the preceding year in meeting the targets established in RCW 19.285.040, including expected electricity savings from the biennial conservation target, expenditures on conservation, actual electricity savings results, the utility's annual load for the prior two years, the amount of megawatt-hours needed to meet the annual renewable energy target, the amount of megawatt-hours of each type of eligible renewable resource acquired, the type and amount of renewable energy credits acquired, and the percent of its total annual retail revenue requirement invested in the incremental cost of eligible renewable resources and the cost of renewable energy credits.

~~((For each year that a qualifying utility elects to demonstrate~~

NINETY-EIGHTH DAY, APRIL 19, 2009

~~alternative compliance under RCW 19.285.040(2) (d) or (i) or 19.285.050(1), it must include in its annual report relevant data to demonstrate that it met the criteria in that section.)~~ A qualifying utility may submit its report to the department in conjunction with its annual obligations in chapter 19.29A RCW.

(2) A qualifying utility that is an investor-owned utility shall also report all information required in subsection (1) of this section to the commission, and on or before June 1, 2014, and annually thereafter, report to the commission its compliance in meeting the targets established in RCW 19.285.040. All other qualifying utilities shall also make all information required in subsection (1) of this section available to the auditor, and on or before June 1, 2014, and annually thereafter, make available to the auditor its determination of compliance in meeting the targets established in RCW 19.285.040. For each year that a qualifying utility elects to demonstrate alternative compliance under RCW 19.285.040(2) or 19.285.050(1), it must include in its annual report relevant data to demonstrate that it met the criteria in that section.

(3) A qualifying utility shall also make reports required in this section available to its customers.

Sec. 4. RCW 19.285.080 and 2007 c 1 s 8 are each amended to read as follows:

(1) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(2) The department shall adopt rules concerning only process, timelines, and documentation to ensure the proper implementation of this chapter as it applies to qualifying utilities that are not investor-owned utilities. Those rules include, but are not limited to, rules associated with a qualifying utility's development of conservation targets under RCW 19.285.040(1); a qualifying utility's decision to pursue alternative compliance in RCW 19.285.040(2) ~~((††))~~ (†) or ~~((††))~~ (†) or 19.285.050(1); and the format and content of reports required in RCW 19.285.070. Nothing in this subsection may be construed to restrict the rate-making authority of the commission or a qualifying utility as otherwise provided by law.

(3) The commission and department may coordinate in developing rules related to process, timelines, and documentation that are necessary for implementation of this chapter.

(4)(a) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by ~~((December 31, 2007))~~ June 30, 2010. These rules may be revised as needed to carry out the intent and purposes of this chapter.

(b) Within six months of the adoption by the Pacific Northwest electric power and conservation planning council of each of its regional power plans, the department shall initiate rule making to consider adopting any changes in methodologies used by the Pacific Northwest electric power and conservation planning council that would impact a qualifying utility's conservation potential assessment in accordance with RCW 19.285.040(1).

(c) Within six months of the adoption by the Pacific Northwest electric power and conservation planning council of each of its regional power plans, the commission shall initiate rule making to consider adopting any changes in methodologies used by the Pacific Northwest electric power and conservation planning council that would impact a qualifying utility's conservation potential assessment in accordance with RCW 19.285.040(1).

(d) Rules adopted under (b) and (c) of this subsection must be applied to the next biennial target that begins at least six months after the adoption date of the rules.

NEW SECTION. Sec. 5. (1) Within existing resources, the department of community, trade, and economic development shall report to the legislature by December 1, 2009, its recommendations on how low-cost hydroelectric generation may be used to firm, shape, and integrate renewable energy resources

2009 REGULAR SESSION

into the northwestern electric grid for delivery to Washington residents. The report must make recommendations on the economic and environmental benefits of using hydroelectric generation in place of fossil fuel-fired generation for integration services. The report must include results from existing studies and analyses from the Pacific Northwest electric power and conservation planning council, the Bonneville power administration, and other relevant organizations. The department of community, trade, and economic development shall also consider information and recommendations from integration service providers and users.

(2) The department of community, trade, and economic development shall conduct a study of the impacts of electricity costs on low-income families. The department shall select two cities, one east of the crest of the Cascade mountains and one west of the crest of the Cascade mountains, and through analysis and case studies determine the impacts of electricity costs on low-income families. The department shall also review the extent to which government energy programs help mitigate electricity costs for low-income families. By December 10, 2009, the department shall provide recommendations to the governor and the appropriate committees of the legislature on how the impacts of electricity costs on low-income families might be further mitigated."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5840 and ask the House to recede therefrom.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the Senate support the demand. The demand is not sustained.

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5840.

Senators Honeyford, Schoesler, Parlette, Carrell, Pflug and Delvin spoke in favor of the motion.

Senator Honeyford demanded a roll call.

The President declared that one-sixth of the Senate support the demand. The demand was sustained.

Senators Rockefeller, Marr and Brown spoke against passage of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5840.

The Secretary called the roll on the motion by Senator Honeyford to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5840 and the motion failed by the following vote: Yeas, 18; Nays, 29; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr,

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

McAuliffe, McDermott, Murray, Oemig, Prentice, Ranker,
Regala, Rockefeller, Sheldon, Shin and Tom
Excused: Senators Benton and Brandland

MESSAGE FROM THE HOUSE

April 7, 2009

MOTION

Senator Rockefeller moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5840 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5840 and request of the House a conference thereon.

The motion by Senator Rockefeller carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5840 and requested of the House a conference thereon by a voice vote.

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5452 with the following amendment: 5452 AMH WARN SNEL 108

On page 1, line 7, after "~~(five)~~", strike "seven" and insert "six" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Berkey moved that the Senate concur in the House amendment(s) to Senate Bill No. 5452.

Senator Berkey spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Berkey that the Senate concur in the House amendment(s) to Senate Bill No. 5452.

The motion by Senator Berkey carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5452 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5452 as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5452, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Carrell, Hewitt, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Benton and Brandland

SENATE BILL NO. 5452, as amended by the House, 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.

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5461 with the following amendment: 5461-S AMH JUDI H2862.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 64.34 RCW to read as follows:

(1) A condominium association with ten or fewer unit owners is not required to follow the requirements under RCW 64.34.380 through 64.34.390 if two-thirds of the owners agree to exempt the association from the requirements.

(2) The unit owners must agree to maintain an exemption under subsection (1) of this section by a two-thirds vote every three years.

(3) Notwithstanding subsections (1) and (2) of this section, a disclosure that the condominium association does not have a reserve study must be included in a unit's public offering statement as required under RCW 64.34.410 or resale certificate as required under RCW 64.34.425."

Correct the title, and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Berkey moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5461.

Senator Berkey spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Berkey that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5461.

The motion by Senator Berkey carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5461 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5461 as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5461, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Kline

Excused: Senators Benton and Brandland

SUBSTITUTE SENATE BILL NO. 5461, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2009

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5468 with the following amendment: 5468-S AMH FII H2953.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 31.04.025 and 2008 c 78 s 1 are each amended to read as follows:

(1) Each loan made to a resident of this state by a licensee is subject to the authority and restrictions of this chapter, unless such loan is made under the authority of chapter 63.14 RCW.

(2) This chapter shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions, nor to any pawnbroking business lawfully transacted under and as permitted by any law of this state regulating pawnbrokers, nor to any loan of credit made pursuant to a credit card plan.

(3) This chapter does not apply to nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents.

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Berkey moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5468.

Senator Berkey spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Berkey that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5468.

The motion by Senator Berkey carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5468 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5468, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5468, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Benton, Brandland and Kline

SUBSTITUTE SENATE BILL NO. 5468, as amended by the House, 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.

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5473 with the following amendment: 5473-S.E AMH CEDT H2857.5

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.157.005 and 1997 c 369 s 1 are each amended to read as follows:

The legislature declares that certain ((industrial)) investments, such as investments for industrial development, environmental improvement, and innovation activities, merit special designation and treatment by governmental bodies when they are proposed. Such investments bolster the economies of their locale and impact the economy of the state as a whole. It is the intention of the legislature to recognize ((industrial)) projects of statewide significance and to encourage local governments and state agencies to expedite their completion.

Sec. 2. RCW 43.157.010 and 2004 c 275 s 63 are each amended to read as follows:

((1)) For purposes of this chapter and RCW 28A.525.166, 28B.76.210, 28C.18.080, 43.21A.350, ((47.06.030,)) and 90.58.100 ((and an industrial)), unless the context requires otherwise:

(1)(a) A project of statewide significance is:

(i) A border crossing project that involves both private and public investments carried out in conjunction with adjacent states or provinces;

(ii) A development project that will provide a net environmental benefit;

(iii) A development project in furtherance of the commercialization of innovations; or

(iv) A private industrial development with private capital investment in manufacturing or research and development.

(b) To qualify for designation under RCW 43.157.030 as ((an industrial)) a project of statewide significance: (((a)))

(i) The project must be completed after January 1, ((1997)) 2009; (((b)))

(ii) The applicant must submit an application to the department for designation as ((an industrial)) a project of statewide significance to the department of community, trade, and economic development; and (((c)))

(iii) The project must have:

((i)) (A) In counties with a population ((of)) less than or equal to twenty thousand, a capital investment of ((twenty)) five million dollars;

((ii)) (B) In counties with a population ((of)) greater than twenty thousand but no more than fifty thousand, a capital investment of ((fifty)) ten million dollars;

((iii)) (C) In counties with a population ((of)) greater than fifty thousand but no more than one hundred thousand, a capital investment of ((one hundred)) fifteen million dollars;

((iv)) (D) In counties with a population ((of)) greater than one hundred thousand but no more than two hundred thousand, a capital investment of ((two hundred)) twenty million dollars;

((v)) (E) In counties with a population ((of)) greater than two hundred thousand but no more than four hundred thousand, a capital investment of ((four hundred)) thirty million dollars;

((vi)) (F) In counties with a population ((of)) greater than four hundred thousand but no more than one million, a capital investment of ((six hundred)) forty million dollars;

((vii)) (G) In counties with a population ((of)) greater than one million, a capital investment of ((one billion)) fifty million dollars;

((viii)) (H) In rural counties ((with fewer than one hundred persons per square mile as determined annually by the office of

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

financial management and published by the department of revenue effective for the period July 1st through June 30th) as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of fifty or greater;

((ix)) (I) In counties ((with one hundred or more persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th)) other than rural counties as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of one hundred or greater; or

((x)) (J) Been ((designated)) qualified by the director of ((community, trade, and economic development)) the department as ((an industrial)) a project of statewide significance either because: ((A) Because the county in which the project is to be located is a distressed county and)

(I) The economic circumstances of the county merit the additional assistance such designation will bring; ((or (B) because))

(II) The impact on a region due to the size and complexity of the project merits such designation;

(III) The project resulted from or is in furtherance of innovation activities at a public research institution in the state or is in or resulted from innovation activities within an innovation partnership zone; or

(IV) The project will provide a net environmental benefit as evidenced by plans for design and construction under green building standards or for the creation of renewable energy technology or components or under other environmental criteria established by the director in consultation with the director of the department of ecology.

A project may be qualified under this subsection (1)(b)(iii)(J) only after consultation on the availability of staff resources of the office of regulatory assistance.

(2) ((The term)) "Department" means the department of community, trade, and economic development.

(3) "Manufacturing" shall have the meaning assigned it in RCW ((82.61.010)) 82.62.010.

((3) The term)) (4) "Research and development" shall have the meaning assigned it in RCW ((82.61.010)) 82.62.010.

((4) The term)) (5) "Applicant" means a person applying to the department ((of community, trade, and economic development)) for designation of a development project as ((an industrial)) a project of statewide significance.

Sec. 3. RCW 43.157.020 and 2003 c 54 s 2 are each amended to read as follows:

Counties and cities with development projects designated as ((industrial)) projects of statewide significance within their jurisdictions shall enter into an agreement with the office of ((permit)) regulatory assistance and the project managers of ((industrial)) projects of statewide significance for expediting the completion of ((industrial)) projects of statewide significance. The agreement shall require:

(1) Expedited permit processing for the design and construction of the project;

(2) Expedited environmental review processing;

(3) Expedited processing of requests for street, right-of-way, or easement vacations necessary for the construction of the project; ((and))

(4) Participation of local officials on the team assembled under the requirements of RCW 43.157.030(2)(b); and

(5) Such other actions or items as are deemed necessary by the office of ((permit)) regulatory assistance for the design and construction of the project.

Sec. 4. RCW 43.157.030 and 2003 c 54 s 3 are each amended to read as follows:

(1) The department of community, trade, and economic development shall:

(a) Develop an application for designation of development projects as ((industrial)) projects of statewide significance. The application must be accompanied by a letter of approval from

the legislative authority of any jurisdiction that will have the proposed ((industrial)) project of statewide significance within its boundaries. No designation of a project as ((an industrial)) a project of statewide significance shall be made without such letter of approval. The letter of approval must state that the jurisdiction joins in the request for the designation of the project as one of statewide significance and has or will hire the professional staff that will be required to expedite the processes necessary to the completion of ((an industrial)) a project of statewide significance. The development project proponents may provide the funding necessary for the jurisdiction to hire the professional staff that will be required to so expedite. The application shall contain information regarding the location of the project, the applicant's average employment in the state for the prior year, estimated new employment related to the project, estimated wages of employees related to the project, estimated time schedules for completion and operation, and other information required by the department; and

(b) ((Certify that)) Designate a development project as a project of statewide significance if the department determines:

(i) After review of the application under criteria adopted by rule, the development project will provide significant economic benefit to the local or state economy, or both, the project is aligned with the state's comprehensive plan for economic development under RCW 43.162.020, and, by its designation, the project will not prevent equal consideration of all categories of proposals under RCW 43.157.010; and

(ii) The development project meets or will meet the requirements of RCW 43.157.010 regarding designation as ((an industrial)) a project of statewide significance.

(2) The office of ((permit)) regulatory assistance shall assign a project facilitator or coordinator to each ((industrial)) project of statewide significance to:

(a) Assist in the scoping and coordinating functions provided for in chapter 43.42 RCW;

(b) Assemble a team of state and local government and private officials to help meet the planning, permitting, and development needs of each project, which team shall include those responsible for planning, permitting and licensing, infrastructure development, workforce development services including higher education, transportation services, and the provision of utilities; and

(c) Work with each team member to expedite their actions in furtherance of the project.

Sec. 5. RCW 28A.525.166 and 2006 c 263 s 311 are each amended to read as follows:

Allocations to school districts of state funds provided by RCW 28A.525.162 through 28A.525.180 shall be made by the superintendent of public instruction and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the superintendent.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

District adjusted	Total state
3-valuation	+adjusted valuation

Computed per pupil	per pupil	State
State	=- % Assistance	
Ratio	District adjusted	Total state
3+valuation	adjusted valuation	per pupil per pupil

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.525.162 through 28A.525.180, the superintendent may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the superintendent finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in subsection (2) of this section, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner prescribed in this section multiplied by the percentage of state assistance derived as provided for in this section shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the superintendent: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the superintendent, considering policy recommendations from the school facilities citizen advisory panel that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden resulting from ((industrial)) projects of statewide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d), and (e) of this subsection, creating a like emergency.

Sec. 6. RCW 28C.18.080 and 1997 c 369 s 5 are each amended to read as follows:

(1) The state comprehensive plan for workforce training and education shall be updated every two years and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan and the updates. The plan shall then become the state's workforce training policy unless legislation is enacted to alter the policies set forth in the plan.

(2) The comprehensive plan shall include workforce training role and mission statements for the workforce development programs of operating agencies represented on the board and sufficient specificity regarding expected actions by the operating agencies to allow them to carry out actions consistent with the comprehensive plan.

(3) Operating agencies represented on the board shall have operating plans for their workforce development efforts that are consistent with the comprehensive plan and that provide detail

on implementation steps they will take to carry out their responsibilities under the plan. Each operating agency represented on the board shall provide an annual progress report to the board.

(4) The comprehensive plan shall include recommendations to the legislature and the governor on the modification, consolidation, initiation, or elimination of workforce training and education programs in the state.

(5) The comprehensive plan shall address how the state's workforce development system will meet the needs of employers hiring for ((industrial)) projects of statewide significance.

(6) The board shall report to the appropriate legislative policy committees by December 1 of each year on its progress in implementing the comprehensive plan and on the progress of the operating agencies in meeting their obligations under the plan.

Sec. 7. RCW 43.21A.350 and 1997 c 369 s 6 are each amended to read as follows:

The department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall address how the department will expedite the completion of ((industrial)) projects of statewide significance. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan.

Sec. 8. RCW 43.42.060 and 2007 c 94 s 7 are each amended to read as follows:

(1) The office may coordinate the processing by participating permit agencies of permits required for a project, at the request of the project proponent through a cost-reimbursement agreement as provided in subsection (3) of this section or with the agreement of the project proponent as provided in subsection (4) of this section.

(2) The office shall assign a project coordinator to perform any or all of the following functions, as specified by the terms of a cost-reimbursement agreement under subsection (3) of this section or an agreement under subsection (4) of this section:

(a) Serve as the main point of contact for the project proponent;

(b) Conduct a project scoping as provided in RCW 43.42.050(2);

(c) Verify that the project proponent has all the information needed to complete applications;

(d) Coordinate the permit processes of the permit agencies;

(e) Manage the applicable administrative procedures;

(f) Work to assure that timely permit decisions are made by the permit agencies and maintain contact with the project proponent and the permit agencies to ensure adherence to schedules;

(g) Assist in resolving any conflict or inconsistency among permit requirements and conditions; and

(h) Coordinate with relevant federal permit agencies and tribal governments to the extent possible.

(3) At the request of a project proponent and as provided in RCW 43.42.070, the project coordinator shall coordinate negotiations among the project proponent, the office, and

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

participating permit agencies to enter into a cost-reimbursement agreement and shall coordinate implementation of the agreement, which shall govern coordination of permit processing by the participating permit agencies.

(4) For ((industrial)) projects of statewide significance or if the office determines that it is in the public interest to coordinate the processing of permits for certain projects that are complex in scope, require multiple permits, involve multiple jurisdictions, or involve a significant number of affected parties, the office shall, upon the proponent's request, enter into an agreement with the project proponent and the participating permit agencies to coordinate the processing of permits for the project. The office may limit the number of such agreements according to the resources available to the office and the permit agencies at the time.

Sec. 9. RCW 90.58.100 and 1997 c 369 s 7 are each amended to read as follows:

(1) The master programs provided for in this chapter, when adopted or approved by the department shall constitute use regulations for the various shorelines of the state. In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

(2) The master programs shall include, when appropriate, the following:

(a) An economic development element for the location and design of industries, ((industrial)) projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

(h) An element that gives consideration to the statewide interest in the prevention and minimization of flood damages; and

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

(3) The master programs shall include such map or maps, descriptive text, diagrams and charts, or other descriptive material as are necessary to provide for ease of understanding.

(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same.

(5) Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3).

(6) Each master program shall contain standards governing the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.

Sec. 10. RCW 43.131.402 and 2007 c 231 s 7 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

- (1) RCW 43.42.005 and 2003 c 71 s 1 & 2002 c 153 s 1;
- (2) RCW 43.42.010 and 2007 c 231 s 5, 2003 c 71 s 2, & 2002 c 153 § 2;
- (3) RCW 43.42.020 and 2002 c 153 s 3;
- (4) RCW 43.42.030 and 2003 c 71 s 3 & 2002 c 153 s 4;
- (5) RCW 43.42.040 and 2003 c 71 s 4 & 2002 c 153 s 5;
- (6) RCW 43.42.050 and 2002 c 153 s 6;
- (7) RCW 43.42.060 and 2009 c . . . s 8 (section 8 of this act) & 2002 c 153 s 7;
- (8) RCW 43.42.070 and 2002 c 153 s 8;
- (9) RCW 43.42.905 and 2002 c 153 s 10;
- (10) RCW 43.42.900 and 2002 c 153 s 11; and
- (11) RCW 43.42.901 and 2002 c 153 s 12.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5473.
Senator Kastama spoke in favor of the motion.

MOTION

On motion of Senator Hatfield, Senator Kline was excused.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5473.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5473 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5473, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5473, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Holmquist, Honeyford and Stevens

Excused: Senators Benton, Brandland and Kline

ENGROSSED SUBSTITUTE SENATE BILL NO. 5473, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5482 with the following amendments: 5482 AMH HUDG H3134.2 & 5482 AMH WILL H3138.1

On page 2, after line 28, insert the following:

"Sec. 4. RCW 46.20.500 and 2003 c 353 s 9, 2003 c 141 s 7, and 2003 c 41 s 1 are each reenacted and amended to read as follows:

(1) No person may drive either a two-wheeled or a three-wheeled motorcycle, or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles.

(2) However, a person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped.

(3) No driver's license is required for operation of an electric-assisted bicycle if the operator is at least sixteen years of age. Persons under sixteen years of age may not operate an electric-assisted bicycle.

(4) No driver's license is required to operate an electric personal assistive mobility device or a power wheelchair.

(5) No driver's license is required to operate a motorized foot scooter. Motorized foot scooters may not be operated at any time from a half hour after sunset to a half hour before sunrise without reflectors of a type approved by the state patrol.

(6) A person holding a valid driver's license may operate a motorcycle as defined under RCW 46.04.330(2) without a motorcycle endorsement."

Re-number the remaining sections consecutively and correct the title.

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

"NEW SECTION. Sec. 5. A new section is added to chapter 47.36 RCW to read as follows:

(1) For the purposes of this section:

(a) "Arterial" means a public road or highway that is designated or qualifies as a principal or minor arterial under a state or local law, ordinance, regulation, or plan.

(b) "Bicycle" means a human-powered vehicle with metallic wheels at least sixteen inches in diameter or with metallic braking strips and metallic components, not necessarily including the frame or fork, which may be lawfully ridden on a public road or highway.

(c) "Bicycle route" means a route (i) that is designated as a route for bicycle use in a state or local law, ordinance, rule, or plan, or (ii) that provides bicycle access to urban areas that are not reasonably and conveniently accessible through other bicycle routes. The level of existing or projected use by bicyclists is a factor to consider in determining whether a bicycle route provides access that is not reasonably and conveniently available from other bicycle routes. An intersection that provides necessary linkages in a bicycle route or between routes is considered a part of the bicycle route or routes.

(d) "Design complete" means that all major design work for a new vehicle-activated traffic control signal has been completed and that the funding necessary for complete construction of the vehicle-activated traffic control signal has been firmly secured.

(e) "Existing vehicle-activated traffic control signal" means a vehicle-activated traffic control signal that is in use or design complete on or before the effective date of this section.

(f)(i) "Motorcycle" means a motor vehicle designed to travel on not more than three wheels in contact with the ground, on which the driver:

(A) Rides on a seat or saddle and the motor vehicle is designed to be steered with a handle bar; or

(B) Rides on a seat in a partially or completely enclosed seating area that is equipped with safety belts and the motor vehicle is designed to be steered with a steering wheel.

(ii) "Motorcycle" excludes a farm tractor, a power wheelchair, an electric personal assistive mobility device, a motorized foot scooter, an electric-assisted bicycle, and a moped.

(g) "Restricted right turn lane" means a right turn only lane where a right turn is not allowed after stopping but only upon a green signal.

(h) "Routinely and reliably detect motorcycles and bicycles" means that the detection equipment at a vehicle-activated traffic control signal is capable of detecting and will reliably detect a motorcycle or bicycle (i) when the motorcycle or bicycle is present immediately before a stop line or crosswalk in the center of a lane at an intersection or road entrance to such an intersection, or (ii) when the motorcycle or bicycle is present at marked detection areas.

(i) "Vehicle-activated traffic control signal" means a traffic control signal on a public road or highway that detects the presence of a vehicle as a means to change a signal phase.

(2) During routine maintenance or monitoring activities, but subject to the availability of funds:

(a) All existing vehicle-activated traffic control signals that do not currently routinely and reliably detect motorcycles and bicycles must be adjusted to do so to the extent that the existing equipment is capable consistent with safe traffic control. Priority must be given to existing vehicle-activated traffic control signals for which complaints relating to motorcycle or bicycle detection have been received and existing vehicle-activated traffic control signals that are otherwise identified as a detection problem for motorcyclists or bicyclists, or both. Jurisdictions operating existing vehicle-activated traffic control signals shall establish and publicize a procedure for filing these

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

complaints in writing or by e-mail, and maintain a record of these complaints and responses; and

(b) Where motorcycle and bicycle detection is limited to certain areas other than immediately before the stop line or crosswalk in the center of a lane at an existing vehicle-activated traffic control signal, those detection areas must be clearly marked on the pavement at left turn lanes, through lanes, and limited right turn lanes. These detection areas must also be marked to allow a bicyclist to leave a bicycle lane to enter a detection area, if necessary, to cross an intersection. Pavement markings must be consistent with the standards described in the state of Washington's "Manual on Uniform Traffic Control Devices for Streets and Highways" obtainable from the department of transportation.

(3)(a) If at least a substantial portion of detection equipment at an existing vehicle-activated traffic control signal on an arterial or bicycle route is scheduled to be replaced or upgraded, the replaced or upgraded detection equipment must routinely and reliably detect motorcycles and bicycles. For purposes of this subsection (3)(a), "substantial portion" means that the proposed replacement or upgrade will cost more than twenty percent of the cost of full replacement or upgraded detection equipment that would routinely and reliably detect motorcycles and bicycles.

(b) If at least a substantial portion of detection equipment at an existing vehicle-activated traffic control signal on a public road or highway that is not an arterial or bicycle route is scheduled to be replaced or upgraded, the replaced or upgraded detection equipment must routinely and reliably detect motorcycles and bicycles. For purposes of this subsection (3)(b), "substantial portion" means that the proposed replacement or upgrade will cost more than fifty percent of the cost of full replacement or upgraded detection equipment that would routinely and reliably detect motorcycles and bicycles.

(4) All vehicle-activated traffic control signals that are design complete and put in operation after the effective date of this section must be designed and operated, when in use, to routinely and reliably detect motorcycles and bicycles, including the detection of bicycles in bicycle lanes that cross an intersection."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jarrett moved that the Senate concur in the House amendment(s) to Senate Bill No. 5482.

Senator Jarrett spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Jarrett that the Senate concur in the House amendment(s) to Senate Bill No. 5482.

The motion by Senator Jarrett carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5482 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5482, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5482, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 14; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Hobbs, Jacobsen,

Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Carrell, Hatfield, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Benton, Brandland and Kline

SENATE BILL NO. 5482, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5504 with the following amendment: 5504-S AMH AGNR H2742.3

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.46.010 and 2006 c 279 s 4 are each amended to read as follows:

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

(1) "Agricultural industrial process water" means water that has been used for the purpose of agricultural processing and has been adequately and reliably treated, so that as a result of that treatment, it is suitable for other agricultural water use.

(2) "Agricultural processing" means the processing of crops or milk to produce a product primarily for wholesale or retail sale for human or animal consumption, including but not limited to potato, fruit, vegetable, and grain processing.

(3) "Agricultural water use" means the use of water for irrigation and other uses related to the production of agricultural products. These uses include, but are not limited to, construction, operation, and maintenance of agricultural facilities and livestock operations at farms, ranches, dairies, and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, and fire control.

(4) ("~~Beneficial use~~" means the use of reclaimed water, that has been transported from the point of production to the point of use without an intervening discharge to the waters of the state, for a beneficial purpose.

~~(5)) "Constructed beneficial use wetlands" means those wetlands intentionally constructed on nonwetland sites to produce or ((replace)) create natural wetland functions and values. ((Constructed beneficial use wetlands are considered "waters of the state."~~

~~(6)) (5) "Constructed treatment wetlands" means ((those wetlands)) wetland-like impoundments intentionally constructed on nonwetland sites and managed for the primary purpose of ((polishing)) further treatment or retention of reclaimed water ((or aesthetics)) as distinct from creating natural wetland functions and values. ((Constructed treatment wetlands are considered part of the collection and treatment system and are not considered "waters of the state."~~

~~(7)) (6) "Direct groundwater recharge" means the controlled subsurface addition of water directly ((to the groundwater basin that results in the replenishment of)) into groundwater for the purpose of replenishing groundwater.~~

~~((8)) (7) "Greywater or gray water" means ((wastewater having the consistency and strength of residential)) domestic type ((wastewater. Greywater includes wastewater)) flows from bathtubs, showers, bathroom sinks, washing machines, dishwashers, and kitchen or utility sinks((-showers, and laundry~~

NINETY-EIGHTH DAY, APRIL 19, 2009

fixtures, but)). Gray water does not include flow from a toilet or urinal ((waters)).

~~((9))~~ "Groundwater recharge" (8) "State drinking water contaminant criteria" means the contaminant criteria found in the drinking water quality standards adopted by the state board of health pursuant to chapter 43.20 RCW and the department of health pursuant to chapter 70.119A RCW.

~~((10))~~ (9) "Industrial reuse water" means water that has been used for the purpose of industrial processing and has been adequately and reliably treated so that, as a result of that treatment, it is suitable for other uses.

~~((11))~~ (10) "Land application" means use of reclaimed water as permitted under this chapter for the purpose of irrigation or watering of landscape ~~((enhancement for residential, business, and governmental purposes))~~ vegetation.

~~((12))~~ (11) "Person" means any state, individual, public or private corporation, political subdivision, governmental subdivision, governmental agency, municipality, copartnership, association, firm, trust estate, or any other legal entity whatever.

~~((13))~~ (12) "Planned groundwater recharge project" means any reclaimed water project designed for the purpose of recharging groundwater ~~((via direct recharge or surface percolation))~~.

~~((14))~~ (13) "Reclaimed water" means ~~((effluent))~~ water derived in any part from ((sewage from a) wastewater ((treatment system)) with a domestic wastewater component that has been adequately and reliably treated, so that ((as a result of that treatment, it is suitable for a beneficial use or a controlled use that would not otherwise occur and is no longer considered wastewater.

~~((15))~~ "Reclamation criteria" means the criteria set forth in the water reclamation and reuse interim standards and subsequent revisions adopted by the department of ecology and the department of health) it can be used for beneficial purposes. Reclaimed water is not considered a wastewater.

(14) "Wastewater" means water-carried wastes from residences, buildings, industrial and commercial establishments, or other places, together with such groundwater infiltration and inflow as may be present.

~~((16))~~ "Sewage" (15) "Domestic wastewater" means ~~((water-carried human wastes from residences, buildings, industrial and commercial establishments, or other places, together with such groundwater infiltration, surface waters, or industrial wastewater as may be present))~~ wastewater from greywater, toilet, or urinal sources.

~~((17))~~ (16) "Streamflow or surface water augmentation" means the ~~((discharge))~~ intentional use of reclaimed water ((to)) for rivers and streams of the state or other surface water bodies, ((but not wetlands)) for the purpose of increasing volumes.

~~((18))~~ (17) "Surface percolation" means the controlled application of water to the ground surface or to unsaturated soil for the purpose of replenishing groundwater.

~~((19))~~ (18) "User" means any person who uses reclaimed water.

~~((20))~~ "Wastewater" means water and wastes discharged from homes, businesses, and industry to the sewer system.

~~((21))~~ (19) "Wetland or wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands regulated under this chapter shall be delineated in accordance with the manual adopted by the department of ecology pursuant to RCW 90.58.380.

(20) "Lead agency" means either the department of health or the department of ecology that has been designated by rule as the agency that will coordinate, review, issue, and enforce a reclaimed water permit issued under this chapter.

2009 REGULAR SESSION

(21) "Nonlead agency" means either the department of health or the department of ecology, whichever is not the lead agency for purposes of this chapter.

Sec. 2. RCW 90.46.015 and 2006 c 279 s 1 are each amended to read as follows:

(1) The department of ecology shall, in coordination with the department of health, adopt rules for reclaimed water use consistent with this chapter. The rules must address all aspects of reclaimed water use, including commercial and industrial uses, land applications, direct groundwater recharge, wetland discharge, surface percolation, constructed wetlands, and streamflow or surface water augmentation. The department of health shall, in coordination with the department of ecology, adopt rules for greywater reuse. The rules must also designate whether the department of ecology or the department of health will be the lead ~~((permitting or regulatory))~~ agency responsible for a particular aspect of reclaimed water use. In developing the rules, the departments of health and ecology shall amend or rescind any existing rules on reclaimed water in conflict with the new rules.

(2) All rules required to be adopted pursuant to this section must be completed no later than December 31, 2010, although the department of ecology is encouraged to adopt the final rules as soon as possible.

(3) The department of ecology must consult with the advisory committee created under RCW 90.46.050 in all aspects of rule development required under this section.

Sec. 3. RCW 90.46.040 and 2006 c 279 s 6 are each amended to read as follows:

(1)~~((a))~~ The department of ecology shall, in coordination with the department of health, adopt a single set of standards, procedures, and guidelines, on or before August 1, 1993, for land applications of reclaimed water.

~~((b))~~ (2) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to RCW 90.46.015 as they relate to the land application of reclaimed water.

~~((2))~~ A permit is required for any land application of reclaimed water. The department of ecology may issue a reclaimed water permit under chapter 90.48 RCW to the generator of reclaimed water who may then distribute the water, subject to provisions in the permit governing the location, rate, water quality, and purpose of use. The department of ecology shall not issue more than one permit for any individual land application of reclaimed water to a single generator.

~~((3))~~ In cases where the department of ecology determines, in land applications of reclaimed water, that a significant risk to the public health exists, the department shall refer the application to the department of health for review and consultation and the department of health may require fees appropriate for review and consultation from the applicant pursuant to RCW 43.70.250.

~~((4))~~ A permit under this section for use of reclaimed water may be issued only to:

~~((a))~~ A municipal, quasi-municipal, or other governmental entity;

~~((b))~~ A private utility as defined under RCW 36.94.010; or

~~((c))~~ The holder of a waste discharge permit issued under chapter 90.48 RCW.

~~((5))~~ The authority and duties created in this section are in addition to any authority and duties already provided in law. Nothing in this section limits the powers of the state or any political subdivision to exercise such authority.

~~((6))~~ Before deciding whether to issue a permit under this section to a private utility, the department of ecology may require information that is reasonable and necessary to determine whether the private utility has the financial and other resources to ensure the reliability, continuity, and supervision of the reclaimed water facility.)

Sec. 4. RCW 90.46.080 and 2006 c 279 s 9 are each amended to read as follows:

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

(1) Except as otherwise provided in this section, reclaimed water may be beneficially used for surface percolation provided the reclaimed water meets the ~~((groundwater recharge))~~ state drinking water contaminant criteria as measured in groundwater beneath or down gradient of the recharge project site, and has been incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) If the state ~~((groundwater recharge))~~ drinking water contaminant criteria ~~((as defined by RCW 90.46.010))~~ do not contain a standard for a constituent or contaminant, the department of ecology shall establish a discharge limit consistent with the goals of this chapter, except as otherwise provided in this section.

(3) Except as otherwise provided in this section, reclaimed water that does not meet the ~~((groundwater recharge))~~ state drinking water contaminant criteria may be beneficially used for surface percolation where the department of ecology, in consultation with the department of health, has specifically authorized such use at such lower standard.

(4) The provisions of this section are superseded by any rules adopted by the department of ecology pursuant to RCW 90.46.015 as they relate to surface percolation.

Sec. 5. RCW 90.46.120 and 2007 c 445 s 3 are each amended to read as follows:

(1) The owner of a wastewater treatment facility that is reclaiming water with a permit issued under this chapter has the exclusive right to any reclaimed water generated by the wastewater treatment facility. Use, distribution, storage, and the recovery from ~~((aquifer))~~ storage of reclaimed water ((by the owner of the wastewater treatment facility)) permitted under this chapter is exempt from the permit requirements of RCW 90.03.250 and 90.44.060, provided that a permit for recovery of reclaimed water from aquifer storage ((and recovery)) shall be reviewed under the standards established under RCW 90.03.370(2) for aquifer storage and recovery projects. Revenues derived from the reclaimed water facility shall be used only to offset the cost of operation of the wastewater utility fund or other applicable source of systemwide funding.

(2) If the proposed use ~~((or uses))~~ of reclaimed water ((are intended)) is to augment or replace potable water supplies or to create the potential for the development of an additional new potable water ~~((supplies, such use or uses shall be considered in the development of any regional water supply plan or plans addressing potable water supply service by multiple water purveyors. Such water supply plans include plans developed by multiple jurisdictions under the relevant provisions of chapters 43.20, 70.116, 90.44, and 90.82 RCW, and the water supply provisions under the utility element of chapter 36.70A RCW. The method by which such plans are approved shall remain unchanged. The owner of a wastewater treatment facility that proposes to reclaim water shall be included as a participant in the development of such regional water supply plan or plans))~~ supply, then regional water supply plans, or any other potable water supply plans prepared by multiple water purveyors, must consider the proposed use of the reclaimed water as they are developed or updated.

(a) Regional water supply plans include those adopted under state board of health laws (chapter 43.20 RCW), the public water system coordination act of 1977 (chapter 70.116 RCW), groundwater protection laws (chapter 90.44 RCW), and the watershed planning act (chapter 90.82 RCW).

(b) The requirement to consider the use of reclaimed water does not change the plan approval process established under these statutes.

(c) When regional water supply plans are being developed, the owners of wastewater treatment facilities that produce or propose to produce reclaimed water for use within the planning area must be included in the planning process.

~~(3) ((Where opportunities for the use of reclaimed water exist within the period of time addressed by a water system plan, a water supply plan, or a coordinated water system plan developed)) When reclaimed water is available or is proposed for use under a water supply or wastewater plan developed under chapter((s)) 43.20, 70.116, 90.44, ((and)) 90.48, or 90.82 RCW((, and the water supply provisions under the utility element of chapter 36.70A RCW,)) these plans must be ((developed and)) coordinated to ensure that opportunities for reclaimed water are evaluated. The requirements of this subsection (3) do not apply to water system plans developed under chapter 43.20 RCW for utilities serving less than one thousand service connections.~~

(4) The provisions of any plan for reclaimed water, developed under the authorities in subsections (2) and (3) of this section, should be included by a city, town, or county in reviewing provisions for water supplies in a proposed short plat, short subdivision, or subdivision under chapter 58.17 RCW, where reclaimed water supplies may be proposed for nonpotable purposes in the short plat, short subdivision, or subdivision.

(5) By November 30, 2009, the department of ecology shall review comments from the reclaimed water advisory committee under RCW 90.46.050 and the reclaimed water and water rights advisory committee under the direction of the department of ecology and submit a recommendation to the legislature on the impairment requirements and standards for reclaimed water. The department of ecology shall also provide a report to the legislature that describes the opinions of the stakeholders on the impairment requirements and standards for reclaimed water.

Sec. 6. RCW 90.48.465 and 2002 c 361 s 2 are each amended to read as follows:

(1) The department shall establish annual fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be established by rule and be adjusted no more often than once every two years. This fee schedule shall apply to all permits, regardless of date of issuance, and fees shall be assessed prospectively. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants. Fees shall be established in amounts to fully recover and not to exceed expenses incurred by the department in processing permit applications and modifications, monitoring and evaluating compliance with permits, conducting inspections, securing laboratory analysis of samples taken during inspections, reviewing plans and documents directly related to operations of permittees, overseeing performance of delegated pretreatment programs, and supporting the overhead expenses that are directly related to these activities.

(2) The annual fee paid by a municipality, as defined in 33 U.S.C. Sec. 1362, for all domestic wastewater facility permits issued under RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of fifteen cents per month per residence or residential equivalent contributing to the municipality's wastewater system.

(3) The department shall ensure that indirect dischargers do not pay twice for the administrative expense of a permit. Accordingly, administrative expenses for permits issued by a municipality under RCW 90.48.165 are not recoverable by the department.

(4) In establishing fees, the department shall consider the economic impact of fees on small dischargers and the economic impact of fees on public entities required to obtain permits for storm water runoff and shall provide appropriate adjustments.

(5) The fee for an individual permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to one thousand two hundred fourteen dollars for fiscal year 1999. The fee for a general permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to eight hundred fifty dollars for fiscal year

NINETY-EIGHTH DAY, APRIL 19, 2009

1999. Thereafter, these fees may rise in accordance with the fiscal growth factor as provided in chapter 43.135 RCW.

(6) The fee for a general permit or an individual permit developed solely as a result of the federal court of appeals decision in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir. 2001) is limited, until June 30, 2003, to a maximum of three hundred dollars. Such a permit is required only, and as long as, the interpretation of this court decision is not overturned or modified by future court rulings, administrative rule making, or clarification of scope by the United States environmental protection agency or legislative action. In such a case the department shall take appropriate action to rescind or modify these permits.

(7) All fees collected under this section shall be deposited in the water quality permit account hereby created in the state treasury. Moneys in the account may be appropriated only for purposes of administering permits under section 9 of this act, RCW 90.48.160, 90.48.162, and 90.48.260.

(8) The department shall present a biennial progress report on the use of moneys from the account to the legislature. The report will be due December 31st of odd-numbered years. The report shall consist of information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

NEW SECTION. Sec. 7. LEAD AGENCY DUTIES. (1) The department of ecology and the department of health shall have authority to carry out all the provisions of this chapter including, but not limited to, permitting and enforcement. Only the department of ecology or the department of health may act as a lead agency for purposes of this chapter and will be established as such by rule. Enforcement of a permit issued under this chapter shall be at the sole discretion of the lead agency that issued the permit.

(2) All permit applications shall be referred to the nonlead agency for review and consultation. The nonlead agency may choose to limit the scope of its review.

(3) The authority and duties created in this chapter are in addition to any authority and duties already provided in law. Nothing in this chapter limits the powers of the state or any political subdivision to exercise such authority.

NEW SECTION. Sec. 8. VIOLATIONS--INJUNCTIONS AND LEGAL PROCEEDINGS AUTHORIZED. The lead agency, with the assistance of the attorney general, is authorized to bring any appropriate action at law or in equity, including action for injunctive relief, as may be necessary to carry out the provisions of this chapter. The lead agency may bring the action in the superior court of the county in which the violation occurred or in the superior court of Thurston county. The court may award reasonable attorneys' fees for the cost of the attorney general's office in representing the lead agency.

NEW SECTION. Sec. 9. OPERATING PERMIT REQUIRED. (1) Any person proposing to generate any type of reclaimed water for a use regulated under this chapter shall obtain a permit from the lead agency prior to distribution or use of that water. The permittee may then distribute and use the water, subject to the provisions in the permit. The permit must include provisions that protect human health and the environment. At a minimum, the permit must:

- (a) Assure adequate and reliable treatment; and
 - (b) Govern the water quality, location, rate, and purpose of use.
- (2) A permit under this chapter may be issued only to:
- (a) A municipal, quasi-municipal, or other governmental entity;
 - (b) A private utility as defined in RCW 36.94.010;
 - (c) The holder of a waste disposal permit issued under chapter 90.48 RCW; or

(d) The owner of an agricultural processing facility that is generating agricultural industrial process water for agricultural use, or the owner of an industrial facility that is generating industrial process water for reuse.

2009 REGULAR SESSION

(3) Before deciding whether to issue a permit under this section to a private utility, the lead agency may require information that is reasonable and necessary to determine whether the private utility has the financial and other resources to ensure the reliability, continuity, and supervision of the reclaimed water facility.

(4) Permits shall be issued for a fixed term specified by the rules adopted under RCW 90.46.015. A permittee shall apply for permit renewal prior to the end of the term. The rules adopted under RCW 90.46.015 shall specify the process of renewal, modification, change of ownership, suspension, and termination.

(5) The lead agency may deny an application for a permit or modify, suspend, or revoke a permit for good cause, including but not limited to, any case in which it finds that the permit was obtained by fraud or misrepresentation, or there is or has been a failure, refusal, or inability to comply with the requirements of this chapter or the rules adopted under this chapter.

(6) The lead agency shall provide for adequate public notice and opportunity for review and comment on all initial permit applications and renewal applications. Methods for providing notice may include electronic mail, posting on the lead agency's internet site, publication in a local newspaper, press releases, mailings, or other means of notification the lead agency determines appropriate. The lead agency shall also publicize notice of final permitting decisions.

(7) Any person aggrieved by a permitting decision has the right to an adjudicative proceeding. An adjudicative proceeding conducted under this subsection is governed by chapter 34.05 RCW. For any permit decision for which the department of ecology is the lead agency under this chapter, any appeal shall be in accordance with chapter 43.21B RCW. For any permit decision for which department of health is the lead agency under this chapter, any application for an adjudicative proceeding must be in writing, state the basis for contesting the action, include a copy of the decision, be served on and received by the department of health within twenty-eight days of receipt of notice of the final decision, and be served in a manner that shows proof of receipt.

(8) Permit requirements for the distribution and use of greywater will be established in rules adopted by the department of health under RCW 90.46.015.

NEW SECTION. Sec. 10. AUTHORITY TO ENTER PREMISES--SEARCH WARRANTS. (1)(a) Except as otherwise provided in (b) of this subsection, the lead agency or its designee shall have the right to enter and inspect any property related to the purpose of the permit, public or private, at reasonable times with prior notification in order to determine compliance with laws and rules administered by the lead agency. During such inspections, the lead agency shall have free and unimpeded access to all data, facilities, and property involved in the generation, distribution, and use of reclaimed water.

(b) The lead agency or its designee need not give prior notification to enter property under (a) of this subsection if the purpose of the entry is to ensure compliance by the permittee with a prior order of the lead agency or if the lead agency or its designee has reasonable cause to believe there is a violation of the law that poses a serious threat to public health and safety or the environment.

(2) The lead agency or its designee may apply for an administrative search warrant to a court of competent jurisdiction and an administrative search warrant may issue where:

- (a) The lead agency has attempted an inspection under this chapter and access has been actually or constructively denied; or
- (b) There is reasonable cause to believe that a violation of this chapter or rules adopted under this chapter is occurring or has occurred.

NEW SECTION. Sec. 11. PLANS, REPORTS, AND PROPOSED METHODS OF OPERATION AND MAINTENANCE TO BE SUBMITTED TO DEPARTMENTS.

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

All required feasibility studies, planning documents, engineering reports, and plans and specifications for the construction of new reclaimed water, agricultural industrial process water, and industrial reuse water facilities, including generation, distribution, and use facilities, or for improvements or extensions to existing facilities, and the proposed method of future operation and maintenance of said facility or facilities, shall be submitted to and be approved by the lead agency, before construction thereof may begin. No approval shall be given until the lead agency is satisfied that the plans, reports, and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the water for the intended use as provided for in this chapter and are adequate to protect public health and safety as necessary.

NEW SECTION. Sec. 12. NOTICE OF DETERMINATION THAT VIOLATION HAS OR WILL OCCUR--REPORT OF COMPLIANCE WITH DETERMINATION--ORDER OR DIRECTIVE TO BE ISSUED--NOTICE. (1) When, in the opinion of the lead agency, a person violates or creates a substantial potential to violate this chapter, the lead agency shall notify the person of its determination by registered mail. The determination shall not constitute an appealable order or directive. Within thirty days from the receipt of notice of such determination, the person shall file with the lead agency a full report stating what steps have been and are being taken to comply with the determination of the lead agency. After the full report is filed or after the thirty days have elapsed, the lead agency may issue the order or directive as it deems appropriate under the circumstances, shall notify the person by registered mail, and shall inform the person of the process for requesting an adjudicative hearing.

(2) When it appears to the lead agency that water quality conditions or other conditions exist which require immediate action to protect human health and safety or the environment, the lead agency may issue a written order to the person or persons responsible without first issuing a notice of determination pursuant to subsection (1) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed, and shall inform the person or persons responsible of the process for requesting an adjudicative hearing.

NEW SECTION. Sec. 13. PENALTY. Any person found guilty of willfully violating any of the provisions of this chapter, or any final written orders or directive of the lead agency or a court in pursuance thereof, is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or both, in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation.

NEW SECTION. Sec. 14. VIOLATIONS--CIVIL PENALTY--PROCEDURE. (1) Except as provided in RCW 43.05.060 through 43.05.080, 43.05.100, 43.05.110, and 43.05.150, any person who:

(a) Generates any reclaimed water for a use regulated under this chapter and distributes or uses that water without a permit;

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

(c) Violates rules or orders adopted or issued pursuant to this chapter,

shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to ten thousand dollars per day for every violation. Each violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be a separate and distinct violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty amount shall be set in consideration of the previous

history of the violator and the severity of the violation's impact on public health, the environment, or both, in addition to other relevant factors.

(2) A penalty imposed by a final administrative order is due upon service of the final administrative order. A person who fails to pay a penalty assessed by a final administrative order within thirty days of service of the final administrative order shall pay, in addition to the amount of the penalty, interest at the rate of one percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid, commencing within the month in which the notice of penalty was served, and reasonable attorneys' fees as are incurred if civil enforcement of the final administrative order is required to collect penalty.

(3) A person who institutes proceedings for judicial review of a final administrative order assessing a civil penalty under this chapter shall place the full amount of the penalty in an interest bearing account in the registry of the reviewing court. At the conclusion of the proceeding the court shall, as appropriate, enter a judgment on behalf of the lead agency and order that the judgment be satisfied to the extent possible from moneys paid into the registry of the court or shall enter a judgment in favor of the person appealing the penalty assessment and order return of the moneys paid into the registry of the court together with accrued interest to the person appealing. The judgment may award reasonable attorneys' fees for the cost of the attorney general's office in representing the lead agency.

(4) If no appeal is taken from a final administrative order assessing a civil penalty under this chapter, the lead agency may file a certified copy of the final administrative order with the clerk of the superior court in which the person resides, or in Thurston county, and the clerk shall enter judgment in the name of the lead agency and in the amount of the penalty assessed in the final administrative order.

(5) When the penalty herein provided for is imposed by the department of ecology, it shall be imposed pursuant to the procedures set forth in RCW 43.21B.300. All penalties imposed by the department of ecology pursuant to RCW 43.21B.300 shall be deposited into the state treasury and credited to the general fund.

(6) When the penalty is imposed by the department of health, it shall be imposed pursuant to the procedures set forth in RCW 43.70.095. All receipts from penalties shall be deposited into the health reclaimed water account. The department of health shall use revenue derived from penalties only to provide training and technical assistance to reclaimed water system owners and operators.

NEW SECTION. Sec. 15. APPLICATION OF ADMINISTRATIVE PROCEDURE LAW TO RULE MAKING AND ADJUDICATIVE PROCEEDINGS. The provisions of chapter 34.05 RCW, the administrative procedure act, apply to all rule making and adjudicative proceedings authorized by or arising under the provisions of this chapter.

Sec. 16. RCW 43.21B.110 and 2003 c 393 s 19 are each amended to read as follows:

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

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, section 14 of this act, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, section 12 of this act, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

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

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

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

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

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

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

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

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

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

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

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

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

Sec. 17. RCW 43.21B.300 and 2007 c 147 s 9 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, section 14 of this act, 90.48.144, 90.56.310, and 90.56.330 and chapter 90.76 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. Within thirty days after the notice is received, the person incurring the penalty may apply in writing to the department or the authority for the remission or mitigation of the penalty. Upon receipt of the application, the department or authority may remit or mitigate the penalty upon whatever terms the department or the authority in its discretion deems proper. The department or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

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

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

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

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

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account created by RCW 70.105.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 90.76.080, which shall be credited to the underground storage tank account created by RCW 90.76.100.

Sec. 18. RCW 43.21B.310 and 2004 c 204 s 5 are each amended to read as follows:

(1) Except as provided in RCW 90.03.210(2), any order issued by the department or local air authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070, section 12 of this act, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after the date of receipt of the order. Except as provided under chapter 70.105D RCW and RCW 90.03.210(2), this is the exclusive means of appeal of such an order.

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

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

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

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, or license appealed;

(c) A description of the substance of the order, permit, or license that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

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

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

it may be appealed only by filing an appeal with the hearings board and serving it on the department within thirty days of the date of receipt.

NEW SECTION. Sec. 19. The code reviser shall alphabetize and renumber the definitions in RCW 90.46.010.

NEW SECTION. Sec. 20. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 21. Sections 7 through 15 of this act are each added to chapter 90.46 RCW.

NEW SECTION. Sec. 22. RCW 90.46.060 (Enforcement powers-- Secretary of health) and 1992 c 204 s 7 are each repealed."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5504.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5504.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5504 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5504, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5504, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

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

Voting nay: Senators Holmquist and Stevens

Excused: Senators Benton and Brandland

SUBSTITUTE SENATE BILL NO. 5504, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5509 with the following amendment: 5509-S AMH HUDG MUNN 184

On page 1, line 14, after "fees," insert "child restraint system rental fees,"

On page 2, beginning on line 18, strike all of subsection (5), and insert the following:

"(5) The following definitions apply to this section unless the context clearly requires otherwise:

(a) "Vehicle license cost recovery fee" means a charge that

may be separately stated and charged on the rental contract in a car rental transaction originating in Washington state to recover costs incurred in the state of Washington by a rental car company to license, title, register, plate, and inspect rental cars; and

(b) "Child restraint system rental fee" means a charge that may be separately stated and charged on the rental contract in a car rental transaction originating in Washington state to recover the costs associated with providing child restraint systems."

On page 2, after line 24, insert the following:

"(6)(a) If a rental car company includes a child restraint system rental fee as a separately stated charge in a rental transaction, the amount of the fee must represent no more than the rental car company's good faith estimate of the rental car company's costs to provide a child restraint system.

(b) If a rental car customer pays a child restraint system rental fee and the child restraint system is not available in a timely manner, as determined by the rental car customer, but in no case less than one hour after the arrival of the customer at the location where the customer receives the vehicle or vehicles, (a) the customer may cancel any reservation or other agreement for the rental of the vehicle or vehicles, (b) any costs or penalties associated with the cancellation are void, and (c) the customer is entitled to a full refund of any costs associated with the rental of the vehicle or vehicles."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jarrett moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5509.

Senator Jarrett spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Jarrett that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5509.

The motion by Senator Jarrett carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5509 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5509, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5509, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Morton

Excused: Senators Benton and Brandland

SUBSTITUTE SENATE BILL NO. 5509, as amended by the House, 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.

NINETY-EIGHTH DAY, APRIL 19, 2009

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5513 with the following amendment: 5513-S AMH TR H2943.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 7.80.090 and 1987 c 456 s 17 are each amended to read as follows:

(1) Procedures for the conduct of all hearings provided in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the state, county, city, ~~((or))~~ town, or transit agency authorized to issue civil infractions may appear in any proceedings under this chapter but need not appear, notwithstanding any statute or rule of court to the contrary.

Sec. 2. RCW 7.80.010 and 1987 c 456 s 9 are each amended to read as follows:

(1) All violations of state law, local law, ordinance, regulation, or resolution designated as civil infractions may be heard and determined by a district court, except as otherwise provided in this section.

(2) Any municipal court has the authority to hear and determine pursuant to this chapter civil infractions that are established by municipal ordinance or by local law or resolution of a transit agency authorized to issue civil infractions, and that are committed within the jurisdiction of the municipality.

(3) Any city or town with a municipal court under chapter 3.50 RCW may contract with the county to have civil infractions that are established by city or town ordinance and that are committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine civil infractions pursuant to this chapter.

(5) Nothing in this chapter prevents any city, town, or county from hearing and determining civil infractions pursuant to its own system established by ordinance.

Sec. 3. RCW 9.91.025 and 2004 c 118 s 1 are each amended to read as follows:

(1) A person is guilty of unlawful ~~((bus))~~ transit conduct if, while on or in a ~~((municipal))~~ transit vehicle ~~((as defined by RCW 46.04.355))~~ or in or at a ~~((municipal))~~ transit station ~~((and with knowledge that the conduct is prohibited))~~, he or she knowingly:

(a) ~~((Except while in or at a municipal transit station,))~~ Smokes or carries a lighted or smoldering pipe, cigar, or cigarette, unless he or she is smoking in an area designated and authorized by the transit authority;

(b) Discards litter other than in designated receptacles;

(c) Dumps or discards, or both, any materials on or at a transit facility including, but not limited to, hazardous substances and automotive fluids;

(d) Plays any radio, recorder, or other sound-producing equipment, except that nothing herein prohibits the use of the equipment when connected to earphones or an ear receiver that limits the sound to an individual listener(s or the use of a communication device by an employee of the owner or operator of the municipal transit vehicle or municipal transit station)). The use of public address systems or music systems that are authorized by a transit agency is permitted. The use of communications devices by transit employees and designated contractors or public safety officers in the line of duty is permitted, as is the use of private communications devices used to summon, notify, or communicate with other individuals, such as pagers and cellular phones;

2009 REGULAR SESSION

~~((and))~~ (e) ~~((or))~~ Spits ~~((or))~~, expectorates, urinates, or defecates, except in appropriate plumbing fixtures in restroom facilities;

~~((or))~~ (f) Carries any flammable liquid, explosive, acid, or other article or material likely to cause harm to others, except that nothing herein prevents a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law;

~~((or))~~ ~~((Intentionally))~~ (g) Consumes an alcoholic beverage or is in possession of an open alcoholic beverage container, unless authorized by the transit authority and required permits have been obtained;

~~((or))~~ (h) Obstructs or impedes the flow of ((municipal)) transit vehicles or passenger traffic, hinders or prevents access to ((municipal)) transit vehicles or stations, or otherwise unlawfully interferes with the provision or use of public transportation services;

~~((or))~~ ~~((Intentionally))~~ (i) Unreasonably disturbs others by engaging in loud, raucous, unruly, harmful, or harassing behavior; ~~((or))~~

~~((or))~~ (j) Destroys, defaces, or otherwise damages property ((of a municipality as defined in RCW 35.58.272 or a regional transit authority authorized by chapter 81.112 RCW employed in the provision or use of public transportation services)) in a transit vehicle or at a transit facility;

(k) Throws an object in a transit vehicle, at a transit facility, or at any person at a transit facility with intent to do harm;

(l) Possesses an unissued transfer or fare media or tenders an unissued transfer or fare media as proof of fare payment;

(m) Falsely claims to be a transit operator or other transit employee or through words, actions, or the use of clothes, insignia, or equipment resembling department-issued uniforms and equipment, creates a false impression that he or she is a transit operator or other transit employee;

(n) Engages in gambling or any game of chance for the winning of money or anything of value;

(o) Skates on roller skates or in-line skates, or rides in or upon or by any means a coaster, skateboard, toy vehicle, or any similar device. However, a person may walk while wearing skates or carry a skateboard while on or in a transit vehicle or in or at a transit station if that conduct is not otherwise prohibited by law; or

(p) Engages in other conduct that is inconsistent with the intended use and purpose of the transit facility, transit station, or transit vehicle and refuses to obey the lawful commands of an agent of the transit authority or a peace officer to cease such conduct.

(2) For the purposes of this section ~~((- "municipal"))~~:

(a) "Transit station" or "transit facility" means all passenger facilities, structures, ((lands, interest in lands, air rights over lands)) stops, shelters, bus zones, properties, and rights-of-way of all kinds that are owned, leased, held, or used by a ((municipality as defined in RCW 35.58.272, or a regional transit authority authorized by chapter 81.112 RCW)) transit authority for the purpose of providing public transportation services((, including, but not limited to, park and ride lots, transit centers and tunnels, and bus shelters.

~~((3) Unlawful bus conduct is a misdemeanor)).~~

(b) "Transit vehicle" means any motor vehicle, street car, train, trolley vehicle, ferry boat, or any other device, vessel, or vehicle that is owned or operated by a transit authority or an entity providing service on behalf of a transit authority that is used for the purpose of carrying passengers on a regular schedule.

(c) "Transit authority" means a city transit system under RCW 35.58.2721 or chapter 35.95A RCW, a county transportation authority under chapter 36.57 RCW, a metropolitan municipal corporation transit system under chapter 36.56 RCW, a public transportation benefit area under chapter 36.57A RCW, an unincorporated transportation benefit area under RCW 36.57.100, a regional transportation authority under

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

chapter 81.112 RCW, or any special purpose district formed to operate a public transportation system.

(3) Any person who violates this section is guilty of a misdemeanor.

Sec. 4. RCW 81.112.020 and 1999 c 20 s 2 are each amended to read as follows:

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

(1) "Authority" means a regional transit authority authorized under this chapter.

(2) "Board" means the board of a regional transit authority.

(3) "Service area" or "area" means the area included within the boundaries of a regional transit authority.

(4) "System" means a regional transit system authorized under this chapter and under the jurisdiction of a regional transit authority.

(5) "Facilities" means any lands, interest in land, air rights over lands, and improvements thereto including vessel terminals, and any equipment, vehicles, vessels, trains, stations, designated passenger waiting areas, and other components necessary to support the system.

(6) "Proof of payment" means evidence of fare prepayment authorized by a regional transit authority for the use of ~~((trains, including but not limited to commuter trains and light rail trains))~~ its facilities.

Sec. 5. RCW 81.112.210 and 1999 c 20 s 3 are each amended to read as follows:

(1) An authority is authorized to establish, by resolution, a schedule of fines and penalties for civil infractions established in RCW 81.112.220. Fines established by a regional transit authority shall not exceed those imposed for class 1 infractions under RCW 7.80.120.

(2)(a) A regional transit authority may designate persons to monitor fare payment who are equivalent to and are authorized to exercise all the powers of an enforcement officer, defined in RCW 7.80.040. An authority is authorized to employ personnel to either monitor fare payment, or to contract for such services, or both.

(b) In addition to the specific powers granted to enforcement officers under RCW 7.80.050 and 7.80.060, persons designated to monitor fare payment also have the authority to take the following actions:

(i) Request proof of payment from passengers;

(ii) Request personal identification from a passenger who does not produce proof of payment when requested;

(iii) Issue a citation conforming to the requirements established in RCW 7.80.070; and

(iv) Request that a passenger leave the regional transit authority ~~((train, including but not limited to commuter trains and light rail trains))~~ facility when the passenger has not produced proof of payment after being asked to do so by a person designated to monitor fare payment.

(3) Regional transit authorities shall keep records of citations in the manner prescribed by RCW 7.80.150. All civil infractions established by chapter 20, Laws of 1999 shall be heard and determined by a district or municipal court as provided in RCW 7.80.010 (1), (2), and (4).

Sec. 6. RCW 81.112.220 and 1999 c 20 s 4 are each amended to read as follows:

(1) Persons traveling on ~~((trains, including but not limited to commuter trains or light rail trains))~~ facilities operated by an authority~~(?)~~ shall pay the fare established by the authority. Such persons shall produce proof of payment when requested by a person designated to monitor fare payment.

(2) The following constitute civil infractions punishable according to the schedule of fines and penalties established by the authority under RCW 81.112.210(1):

(a) Failure to pay the required fare;

(b) Failure to display proof of payment when requested to do so by a person designated to monitor fare payment; and

(c) Failure to depart the ~~((train, including but not limited to commuter trains and light rail trains))~~ facility when requested to do so by a person designated to monitor fare payment.

Sec. 7. RCW 81.112.230 and 2006 c 270 s 12 are each amended to read as follows:

Nothing in RCW 81.112.020 and 81.112.210 through 81.112.230 shall be deemed to prevent law enforcement authorities from prosecuting for theft, trespass, or other charges by any individual who:

(1) Fails to pay the required fare on more than one occasion within a twelve-month period;

(2) Fails to timely select one of the options for responding to the notice of civil infraction after receiving a statement of the options provided in this chapter for responding to the notice of infraction and the procedures necessary to exercise these options; or

(3) Fails to depart the ~~((train, including but not limited to commuter trains and light rail trains))~~ facility when requested to do so by a person designated to monitor fare payment.

NEW SECTION. Sec. 8. A new section is added to chapter 81.112 RCW to read as follows:

The powers and authority conferred by RCW 81.112.210 through 81.112.230 are in addition and supplemental to powers or authority conferred by any other law. RCW 81.112.210 through 81.112.230 do not limit any other powers or authority of a regional transit authority.

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."

Correct the title and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jarrett moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5513.

Senator Jarrett spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Jarrett that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5513.

The motion by Senator Jarrett carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5513 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5513, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5513, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Benton and Brandland

NINETY-EIGHTH DAY, APRIL 19, 2009

2009 REGULAR SESSION

ENGROSSED SUBSTITUTE SENATE BILL NO. 5513, as amended by the House, 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.

BARBARA BAKER, Chief Clerk

MOTION

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5531 with the following amendment: 5531-S AMH ENGR H3246.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.86.090 and 2007 c 66 s 2 are each amended to read as follows:

Any person who is injured in his or her business or property by a violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or any person so injured because he or she refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may bring a civil action in ~~((the))~~ superior court to enjoin further violations, to recover the actual damages sustained by him or her, or both, together with the costs of the suit, including a reasonable attorney's fee(~~(; and))~~). In addition, the court may in its discretion, increase the award of damages up to an amount not to exceed three times the actual damages sustained: PROVIDED, That such increased damage award for violation of RCW 19.86.020 may not exceed ~~((ten))~~ twenty-five thousand dollars: PROVIDED FURTHER, That such person may bring a civil action in the district court to recover his or her actual damages, except for damages which exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorney's fees. The district court may, in its discretion, increase the award of damages to an amount not more than three times the actual damages sustained, but such increased damage award shall not exceed ~~((the amount specified in RCW 3.66.020))~~ twenty-five thousand dollars. For the purpose of this section, "person" ~~((shall))~~ includes the counties, municipalities, and all political subdivisions of this state.

Whenever the state of Washington is injured, directly or indirectly, by reason of a violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, it may sue therefor in ~~((the))~~ superior court to recover the actual damages sustained by it, whether direct or indirect, and to recover the costs of the suit including a reasonable attorney's fee.

NEW SECTION. Sec. 2. A new section is added to chapter 19.86 RCW to read as follows:

In a private action in which an unfair or deceptive act or practice is alleged under RCW 19.86.020, a claimant may establish that the act or practice is injurious to the public interest because it:

- (1) Violates a statute that incorporates this chapter;
- (2) Violates a statute that contains a specific legislative declaration of public interest impact; or
- (3)(a) Injured other persons; (b) had the capacity to injure other persons; or (c) has the capacity to injure other persons."

NEW SECTION. Sec. 3. This act applies to all causes of action that accrue on or after the effective date of this act."

Correct the title.
and the same are herewith transmitted.

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5531.

Senators Regala and Holmquist spoke in favor of passage of the motion.

MOTION

On motion of Senator Marr, Senator Fairley was excused.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5531.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5531 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5531, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5531, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 17; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Benton, Brandland and Fairley

SUBSTITUTE SENATE BILL NO. 5531, as amended by the House, 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

Senator Eide moved that the following bills were removed from the calendar and be referred to the Committee on Rules.

House Bill No. 1028,
House Bill No. 1080,
Engrossed Substitute House Bill No. 1114,
Engrossed House Bill No. 1251,
House Bill No. 1312,
Substitute House Bill No. 1369,
Engrossed Second Substitute House Bill No. 1393,
House Bill No. 1431,
House Bill No. 1456,
House Bill No. 1483,
Substitute House Bill No. 1554,
Substitute House Bill No. 1572,
Engrossed Substitute House Bill No. 1703,
Engrossed House Bill No. 1728,
Second Substitute House Bill No. 1797,
House Bill No. 1880,
Substitute House Bill No. 1900,

NINETY-EIGHTH DAY, APRIL 19, 2009

House Bill No. 1912,
Substitute House Joint Memorial No. 4004,

MOTION

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

SECOND READING

SENATE BILL NO. 6173, by Senator Prentice

Improving sales tax compliance.

The measure was read the second time.

MOTION

On motion of Senator Tom, the rules were suspended, Senate Bill No. 6173 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 Senate Bill No. 6173.

POINT OF ORDER

Senator Schoesler: "I believe that this measure is not properly before us. According to House Concurrent Resolution No. 4402, Friday, April 17, was the final day to consider a bill unless it is a matter of differences between the House and the Senate or unless the bill is necessary to implement the budget. This bill is not referenced in the proposed budget nor is the revenue generated from this bill assumed in the budget. Therefore, I believe that this bill is not properly before us and I ask you to rule."

MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 6173 was deferred and the bill held its place on the third reading calendar.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075, by House Committee on Finance (originally sponsored by Representative Hunter)

Concerning the excise taxation of certain products and services provided or furnished electronically.

The measure was read the second time.

MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Substitute House Bill No. 2075 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 House Bill No. 2075.

POINT OF ORDER

Senator Honeyford: "Thank you Mr. President. I believe this measure may require a super majority vote under provisions of the law enacted by Initiative 960. This measure imposes sale

2009 REGULAR SESSION

tax on digital goods. It's true that the bill also contains some sale tax exemptions for some digital products such as electronic newspaper content but it plainly imposes new taxes on goods that are presently not subject to tax because of this tax increase I believe a super majority vote of this body is needed for final passage and I respect a ruling, request a ruling thereon."

Senator Tom spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute House Bill No. 2075 was deferred and the bill held its place on the third reading calendar.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Schoesler as whether or not Senate Bill No. 6173 is appropriately before us. It's clear that this bill is projected to generate considerable revenue and since the state faces a multibillion dollar deficiency the President can reasonably anticipate that the revenue is necessary to implement the budget so your, Senator Schoesler's point is not well taken and the bill is properly before us."

The Senate resumed consideration of Senate Bill No. 6173 which had been deferred earlier in the day.

Senator Tom spoke in favor of passage of the bill.
Senator Sheldon spoke against passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6173 and the bill passed the Senate by the following vote: Yeas; 26; Nays; 21; Absent; 0; Excused; 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Jacobsen, Jarrett, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Benton and Brandland

SENATE BILL NO. 6173, 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 7:11 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Monday, April 20, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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