

ONE-HUNDRED THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, April 24, 2009

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Berkey.

The Sergeant at Arms Color Guard consisting of Pages Randy Fishman and Jonathon Peterson, presented the Colors. Pastor Gregory Christopher of Shiloh Baptist Church of Tacoma offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS

April 23, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

H. JEFFERY HOWARD, appointed April 9, 2009, for the term ending December 5, 2012, as Member of the Eastern State Hospital Advisory Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

MOTION

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

MOTION

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

MOTION

Senator McAuliffe moved adoption of the following resolution:

SENATE RESOLUTION
8658

By Senators McAuliffe, Parlette, Murray, Regala, Kauffman, McDermott, Marr, King, Oemig, Hewitt, Eide, and Kohl-Welles

WHEREAS, The arts, including dance, music, theatre, and visual arts, are defined as a core content area in Washington State's definition of basic education, and considered an essential component of the complete education that should be provided for all students; and

WHEREAS, Learning in and through the arts enables students to develop critical thinking and problem-solving skills, imagination and creativity, discipline, alternative ways to communicate and express feelings and ideas, and cross-cultural understanding, which supports academic success across the curriculum as well as personal growth outside the classroom; and

WHEREAS, Imagination and creativity are increasingly understood as critical capacities needed for success in life in the twenty-first century and students learn these skills through meaningful learning in the arts; and

WHEREAS, The arts can bring every academic subject to life and that the integration of the arts within the broader academic curriculum, including reading, mathematics, science, and social studies, can enhance student engagement, extend student learning, and deepen student understanding of all the academic content areas; and

WHEREAS, The arts can transform our schools into havens of creativity and exploration places where students want to learn, teachers want to teach, and all members of the learning community are more engaged and motivated; and

WHEREAS, We applaud the efforts and dedication of educators and advocates around the state, and we call for school and community leaders to continue to broaden and strengthen their arts education focus in order to ensure equity of access to arts learning for all students;

NOW, THEREFORE, BE IT RESOLVED, That the Senate reaffirms the importance of the arts as an essential part of a complete education for all students; and

BE IT FURTHER RESOLVED, That May 2009 is recognized by the Governor as Arts Education Month in Washington State, and all communities are encouraged to celebrate the arts with meaningful activities and programs for students, teachers, and the public that demonstrate learning and understanding in the arts, and all citizens are urged to become interested in and give full support to quality school arts programs for children and youth.

Senators McAuliffe, Eide, Kohl-Welles, McDermott, Franklin and Fraser spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8658.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of the Washington Alliance for Arts Education who were seated in the gallery.

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Delvin moved that Gubernatorial Appointment No. 9033, John Ellis, as a member of the Gambling Commission, be confirmed.

Senator Delvin spoke in favor of the motion.

MOTION

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

On motion of Senator McDermott, Senators Franklin and Jacobsen were excused.

APPOINTMENT OF JOHN ELLIS

MOTION

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9033, John Ellis as a member of the Gambling Commission.

At 11:53 a.m., on motion of Senator McDermott, the Senate was declared to be recessed until 1:30 p.m.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9033, John Ellis as a member of the Gambling Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

AFTERNOON SESSION

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

Voting yea: Senators Becker, Benton, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, 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

MOTION

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

Voting nay: Senator Kauffman

Excused: Senator Berkey

Gubernatorial Appointment No. 9033, John Ellis, having received the constitutional majority was declared confirmed as a member of the Gambling Commission.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9041, Earl Hale, as a member of the Higher Education Coordinating Board, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

MOTION

At 10:29 a.m., on motion of Senator McDermott, the Senate was declared to be at ease subject to the call of the President.

On motion of Senator Marr, Senators Brown, Eide, Fairley, Hobbs and McAuliffe were excused.

The Senate was called to order at 11:51 a.m. by President Owen.

MOTION

MOTION

On motion of Senator Brandland, Senators Benton, Carrell, McCaslin, Morton and Roach were excused.

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

APPOINTMENT OF EARL HALE

MESSAGE FROM THE HOUSE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9041, Earl Hale as a member of the Higher Education Coordinating Board.

April 23, 2009

MR. PRESIDENT:

The House grants the request of Senate for a conference on SECOND SUBSTITUTE SENATE BILL NO. 5433. The Speaker has appointed the following members as Conferees:

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9041, Earl Hale as a member of the Higher Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 3; Excused, 6.

Representatives Hunter, Nelson and Orcutt. and the same is herewith transmitted.

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

BARBARA BAKER, Chief Clerk

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Second Substitute Senate Bill No. 5433 and the House amendment(s) thereto: Senators Tom, Regala and King.

Absent: Senators Hargrove, Hatfield and Kline
Excused: Senators Eide, Fairley, Hobbs, Jacobsen, McAuliffe and Morton

MOTION

Gubernatorial Appointment No. 9041, Earl Hale, having received the constitutional majority was declared confirmed as a member of the Higher Education Coordinating Board.

On motion of Senator McDermott, the appointments to the conference committee were confirmed.

MOTION

MOTION

On motion of Senator McDermott, the Senate reverted to the

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fourth order of business.

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House amendment number 621 to Engrossed Senate Bill No. 5013 and ask the House to recede therefrom.

The motion by Senator Kline carried and the Senate refused to concur in House amendment number 621 to Engrossed Senate Bill No. 5013 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1701 and asks Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate insist on its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1701 and ask the House to concur thereon.

The President declared the question before the Senate to be motion by Senator Kastama that the Senate insist on its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1701 and ask the House to concur hereon.

The motion by Senator Kastama carried and the Senate insisted on its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1701 and asked the House to concur thereon by voice vote.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5013 with the following amendments: 5013.E AMH BARC 025 & 5013.E AMH GOOD BARC 034

On page 4, line 8, after "as" strike "processing ex parte orders," and insert "~~((processing ex parte orders,))~~"

On page 4, line 12, after "(12)" insert "For processing ex parte orders, the clerk may collect a fee of thirty dollars.
(13)"

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

On page 5, beginning on line 24, after "(28)" strike all material through "(29)" on line 28

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

On page 3, line 19, after "(4)" insert "(a)"

On page 3, after line 30, insert the following:

"(b) For preparing a copy of any instrument, document, or file without a seal, the clerk may waive all or part of the fees established in (a) of this subsection for members of the news media as defined in RCW 5.68.010(5)."
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate refuse to concur in House amendment number 621 to Engrossed Senate Bill No. 5013 and ask the House to recede therefrom.

Senators Kline spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kline that the Senate refuse to concur in

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5263 with the following amendment: 5263-S.E AMH DICK ADAM 067

On page 3, line 37, after "activities" insert ". However, a school security officer may not possess a device listed in subsection (1)(f) of this section unless he or she has successfully completed training in the use of the device that is equivalent to the training received by commissioned law enforcement officers.

A school security officer who has completed the necessary training to possess a device listed in subsection (1)(f) of this section may not use the device on or against a student unless the student's behavior poses a threat of great bodily harm, as defined in 9A.04.110, or loss of life. For the purposes of this subsection (3)(b), "school security officer" means a person who is not a commissioned law enforcement officer and who provides school security services under the direction of a school administrator" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5263 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Kline that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5263 and ask the House to recede therefrom.

The motion by Senator Kline carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5263 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 22, 2009

MR. PRESIDENT:

The House receded in its amendment to SENATE BILL NO. 5359. Under suspension of rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5359 AMH HUNS REIL 037, and passed the bill as amended by the House.

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

On page 1, line 17, after "(2)" remove all material through "official." on page 2, line 15 and insert "An elections official may not enter into or extend any contract with a vendor if such contract may allow the vendor to acquire an ownership interest"

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in any data pertaining to any voter, any voter's address, registration number, or history, or any ballot."
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Oemig moved that the Senate concur in the House amendment(s) to Senate Bill No. 5359.

Senator Oemig spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Oemig that the Senate concur in the House amendment(s) to Senate Bill No. 5359.

The motion by Senator Oemig carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5359 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5359, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5359, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

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

Absent: Senators Fraser and Schoesler

Excused: Senators Eide, Hobbs, Jacobsen and McAuliffe

SENATE BILL NO. 5359, 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

On motion of Senator Delvin, Senator Schoesler was excused.

MESSAGE FROM THE HOUSE

April 22, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5525 with the following amendment: 5525 AMH WAYS H3348.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.728 and 2007 c 483 s 304 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) (Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined.

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The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(i) A sex offense;

(ii) A violent offense;

(iii) A crime against persons as defined in RCW 9.94A.411;

(iv) A felony that is domestic violence as defined in RCW 10.99.020;

(v) A violation of RCW 9A.52.025 (residential burglary);

(vi) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(vii) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(C) Has no prior conviction for:

(i) A sex offense;

(ii) A violent offense;

(iii) A crime against persons as defined in RCW 9.94A.411;

(iv) A felony that is domestic violence as defined in RCW 10.99.020;

(v) A violation of RCW 9A.52.025 (residential burglary);

(vi) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(vii) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(D) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(E) Has not committed a new felony after July 22, 2007, while under community supervision, community placement, or community custody;

(iii) For purposes of determining an offender's eligibility under this subsection (1)(b), the department shall perform a risk assessment of every offender committed to a correctional facility operated by the department who has no current or prior conviction for a sex offense, a violent offense, a crime against persons as defined in RCW 9.94A.411, a felony that is domestic

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violence as defined in RCW 10.99.020, a violation of RCW 9A.52.025 (residential burglary), a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor). The department must classify each assessed offender in one of four risk categories between highest and lowest risk.

~~(iv) The department shall recalculate the earned release time and reschedule the expected release dates for each qualified offender under this subsection (1)(b).~~

~~(v) This subsection (1)(b) applies retroactively to eligible offenders serving terms of total confinement in a state correctional facility as of July 1, 2003.~~

~~(vi) This subsection (1)(b) does not apply to offenders convicted after July 1, 2010.~~

~~(c) In no other case shall the aggregate earned release time exceed one-third of the total sentence;~~

~~(2)(a) A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;~~

~~(b) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;~~

~~(c) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community placement or community custody terms eligible for release to community custody status in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;~~

~~(d) The department may deny transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody or community placement;~~

~~(e) If the department denies transfer to community custody status in lieu of earned early release pursuant to (d) of this subsection, the department may transfer an offender to partial confinement in lieu of earned early release up to three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in this section;~~

~~(f) An offender serving a term of confinement imposed under RCW 9.94A.670(4)(a) is not eligible for earned release credits under this section;~~

~~(3)) An offender may earn early release time as authorized by section 3 of this act.~~

~~(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition,~~

offenders may leave a correctional facility when in the custody of a corrections officer or officers;

~~((4)) (3)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:~~

~~(i) The offender has a medical condition that is serious enough to require costly care or treatment;~~

~~(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and~~

~~(iii) Granting the extraordinary medical placement will result in a cost savings to the state.~~

~~(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.~~

~~(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.~~

~~(d) The secretary may revoke an extraordinary medical placement under this subsection at any time.~~

~~(e) Persistent offenders are not eligible for extraordinary~~

~~medical placement;~~

~~((5)) (4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;~~

~~((6)) (5) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to ((subsection (2)(e))) section 3(5)(d) of this ((section)) act;~~

~~((7)) (6) The governor may pardon any offender;~~

~~((8)) (7) The department may release an offender from confinement any time within ten days before a release date calculated under this section; and~~

~~((9)) (8) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870.~~

Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540(~~however persistent offenders are not eligible for extraordinary medical placement~~).

Sec. 2. RCW 9.94A.728 and 2008 c 231 s 34 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) (Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release

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credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor); (C) Has no prior conviction for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(D) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(E) Has not committed a new felony after July 22, 2007, while under community custody.

(iii) For purposes of determining an offender's eligibility under this subsection (1)(b), the department shall perform a risk assessment of every offender committed to a correctional facility operated by the department who has no current or prior conviction for a sex offense, a violent offense, a crime against persons as defined in RCW 9.94A.411, a felony that is domestic violence as defined in RCW 10.99.020, a violation of RCW 9A.52.025 (residential burglary), a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor). The department must classify

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each assessed offender in one of four risk categories between highest and lowest risk:

(iv) The department shall recalculate the earned release time and reschedule the expected release dates for each qualified offender under this subsection (1)(b).

(v) This subsection (1)(b) applies retroactively to eligible offenders serving terms of total confinement in a state correctional facility as of July 1, 2003.

(vi) This subsection (1)(b) does not apply to offenders convicted after July 1, 2010.

(c) In no other case shall the aggregate earned release time exceed one-third of the total sentence;

(2)(a) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, may become eligible, in accordance with a program developed by the department, for transfer to community custody in lieu of earned release time pursuant to subsection (1) of this section;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department denies transfer to community custody in lieu of earned early release pursuant to (c) of this subsection, the department may transfer an offender to partial confinement in lieu of earned early release up to three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in this section;

(e) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section;

(3) An offender may earn early release time as authorized by section 3 of this act.

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

((4)) (3)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious enough to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and

(iii) Granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall

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specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time.

(e) Persistent offenders are not eligible for extraordinary medical placement;

~~((5))~~ (4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

~~((6))~~ (5) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to ~~((subsection (2)))~~ section 3(5)(d) of this ((section)) act;

~~((7))~~ (6) The governor may pardon any offender;

~~((8))~~ (7) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

~~((9))~~ (8) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870; and

~~((10))~~ (9) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540 ~~((; however persistent offenders are not eligible for extraordinary medical placement)).~~

NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW to read as follows:

(1) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time.

(2) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(c) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (c)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(d) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(c) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(c) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who is convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(5);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan. The voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) For each offender who is the recipient of a rental voucher, the department shall include, concurrent with the data that the department otherwise obtains and records, the housing

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status of the offender for the duration of the offender's supervision.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

NEW SECTION. Sec. 4. The department shall report to the legislature and the appropriate committees by December 1, 2009, the number of rental vouchers issued to offenders pursuant to this act, any sanction history for offenders after they received the vouchers, and additional information tracked by the department that may assist the legislature in evaluating the rental voucher program.

NEW SECTION. Sec. 5. Section 2 of this act takes effect August 1, 2009.

NEW SECTION. Sec. 6. Section 1 of this act expires August 1, 2009.

NEW SECTION. Sec. 7. Section 3 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 Carrell moved that the Senate concur in the House amendment(s) to Senate Bill No. 5525.

The President declared the question before the Senate to be the motion by Senator Carrell that the Senate concur in the House amendment(s) to Senate Bill No. 5525.

MOTION

On motion of Senator Hatfield, Senator Fraser was excused.

The motion by Senator Carrell carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5525 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5525, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5525, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 10; Absent, 0; Excused, 6.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Jarrett, Kastama, Kauffman, Keiser, King, Kline, Kohl-Welles, Marr, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Benton, Holmquist, Honeyford, Kilmer, McCaslin, Morton, Parlette, Pflug and Sheldon

Excused: Senators Eide, Fraser, Hobbs, Jacobsen, McAuliffe and Schoesler

SENATE BILL NO. 5525, 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

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5734 with the following amendment: 5734-S AMH ENGR H3287.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.15.067 and 2007 c 355 s 7 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Beginning with the 2003-04 academic year and ending with the ~~((2008-09))~~ 2012-13 academic year, reductions or increases in full-time tuition fees for resident undergraduates shall be as provided in the omnibus appropriations act.

(3)(a) Beginning with the 2003-04 academic year and ending with the ~~((2008-09))~~ 2012-13 academic year, the governing boards of the state universities, the regional universities, The Evergreen State College, and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including summer school students and students in other self-supporting degree programs. Percentage increases in full-time tuition fees may exceed the fiscal growth factor. Reductions or increases may be made for all or portions of an institution's programs, campuses, courses, or students.

(b) Prior to reducing or increasing tuition for each academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College shall consult with existing student associations or organizations with student undergraduate and graduate representatives regarding the impacts of potential tuition increases. Governing boards shall be required to provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(c) Prior to reducing or increasing tuition for each academic year, each college in the state board for community and technical college system shall consult with existing student associations or organizations with undergraduate student representation regarding the impacts of potential tuition increases. Colleges shall provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(4) Academic year tuition for full-time students at the state's institutions of higher education beginning with ~~((2009-10))~~ 2015-16, other than summer term, shall be as charged during the ~~((2008-09))~~ 2014-15 academic year unless different rates are adopted by the legislature.

(5) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

(6) The tuition fees established under this chapter shall not apply to eligible students enrolling in a community or technical college under RCW 28C.04.610.

(7) The tuition fees established under this chapter shall not apply to eligible students enrolling in a community or technical college participating in the pilot program under RCW 28B.50.534 for the purpose of obtaining a high school diploma.

(8) For the academic years 2003-04 through 2008-09, the University of Washington shall use an amount equivalent to ten percent of all revenues received as a result of law school tuition increases beginning in academic year 2000-01 through academic year 2008-09 to assist needy low and middle-income resident law students.

(9) For the academic years 2003-04 through 2008-09, institutions of higher education shall use an amount equivalent to ten percent of all revenues received as a result of graduate academic school tuition increases beginning in academic year

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2003-04 through academic year 2008-09 to assist needy low and middle-income resident graduate academic students.

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

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

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

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

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

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

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

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

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

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

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

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

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5734.

Senator Kilmer spoke in favor of the motion.

MOTION

On motion of Senator Kauffman, Senator Franklin was excused.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5734.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5734 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5734, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5734, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 8; Absent, 0; Excused, 5.

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

Voting nay: Senators Benton, Honeyford, McCaslin, Morton, Oemig, Pflug, Roach and Sheldon

Excused: Senators Eide, Fraser, Hobbs, Jacobsen and McAuliffe

SUBSTITUTE SENATE BILL NO. 5734, 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 21, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5892 with the following amendment: 5892-S.E AMH ENGR H3392.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 69.41.190 and 2006 c 233 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, any pharmacist filling a prescription under a state purchased health care program as defined in RCW 41.05.011(2) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of a immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks, in which case the pharmacist shall dispense the prescribed nonpreferred drug.

~~((2))~~ (b) When a substitution is made under (a) of this subsection ~~((1) of this section))~~, the dispensing pharmacist shall notify the prescribing practitioner of the specific drug and dose dispensed.

(2)(a) A state purchased health care program may impose limited restrictions on an endorsing practitioner's authority to write a prescription to dispense as written only under the following circumstances:

(i) There is statistical or clear data demonstrating the endorsing practitioner's frequency of prescribing dispensed as written for nonpreferred drugs varies significantly from the prescribing patterns of his or her peers;

(ii) The medical director of a state purchased health program has: (A) Presented the endorsing practitioner with data that indicates the endorsing practitioner's prescribing patterns vary significantly from his or her peers, (B) provided the endorsing practitioner an opportunity to explain the variation in his or her

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prescribing patterns to those of his or her peers, and (C) if the variation in prescribing patterns cannot be explained, provided the endorsing practitioner sufficient time to change his or her prescribing patterns to align with those of his or her peers; and

(iii) The restrictions imposed under (a) of this subsection (2) must be limited to the extent possible to reduce variation in prescribing patterns and shall remain in effect only until such time as the endorsing practitioner can demonstrate a reduction in variation in line with his or her peers.

(b) A state purchased health care program may immediately designate an available, less expensive, equally effective generic product in a previously reviewed drug class as a preferred drug, without first submitting the product to review by the pharmacy and therapeutics committee established pursuant to RCW 70.14.050.

(c) For a patient's first course of treatment within a therapeutic class of drugs, a state purchased health care program may impose limited restrictions on endorsing practitioners' authority to write a prescription to dispense as written, only under the following circumstances:

(i) There is a less expensive, equally effective therapeutic alternative generic product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation;

(iii) Notwithstanding the limitation set forth in (c)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the brand name drug be prescribed as the first course of treatment;

(iv) The state purchased health care program may provide, where available, prescription, emergency room, diagnosis, and hospitalization history with the endorsing practitioner; and

(v) Specifically for antipsychotic restrictions, the state purchased health care program shall effectively guide good practice without interfering with the timeliness of clinical decision making. Department of social and health services prior authorization programs must provide for responses within twenty-four hours and at least a seventy-two hour emergency supply of the requested drug.

(d) If, within a therapeutic class, there is an equally effective therapeutic alternative over-the-counter drug available, a state purchased health care program may designate the over-the-counter drug as the preferred drug.

(e) A state purchased health care program may impose limited restrictions on endorsing practitioners' authority to prescribe pharmaceuticals to be dispensed as written for a purpose outside the scope of their approved labels only under the following circumstances:

(i) There is a less expensive, equally effective on-label product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation; and

(iii) Notwithstanding the limitation set forth in (e)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the drug be prescribed for a covered off-label purpose.

(f) The provisions of this subsection related to the definition of medically necessary, prior authorization procedures and patient appeal rights shall be implemented in a manner consistent with applicable federal and state law.

(3) Notwithstanding the limitations in subsection (2) of this section, for refills for an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of an immunomodulator antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks by no more than forty-eight weeks, the pharmacist shall dispense the prescribed nonpreferred drug.

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

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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 Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5892.

Senator Keiser spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senator Rockefeller was excused.

MOTION

On motion of Senator Oemig, Senator Kauffman was excused.

Senator 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 Engrossed Substitute Senate Bill No. 5892.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5892 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5892, as amended by the House.

POINT OF INQUIRY

Senator Pflug: "Would Senator Keiser yield to a question? Senator Keiser, is it your understanding that nothing in subsection two sub c of Senate Bill No. 5892 is intended to allow a state purchase health care program to establish or implement an automatic antipsychotic fail first therapy treatment regimen requiring a patient to start a pharmaceutical therapy regimen in which the least expensive drug option must be found ineffective before the patient is provided access to more expensive pharmaceutical agents?"

Senator Keiser: "Yes, it is my understanding that Senate Bill No. 5892 will not establish or implement an automatic fail first therapy treatment regimen for antipsychotic medications."

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5892, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 15; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brandland, Brown, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Jarrett, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Carrell, Delvin, Holmquist, Honeyford, King, McCaslin, Morton, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

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Excused: Senators Eide, Hobbs, Jacobsen, Kauffman and McAuliffe

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ENGROSSED SUBSTITUTE SENATE BILL NO. 5892, 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 22, 2009

MR. PRESIDENT:

The House receded from its amendment. Under suspension of rules ENGROSSED SENATE BILL NO. 5894 was returned to second reading for the purpose of an amendment. The House has adopted the following amendment: 5894.E AMH ROLF MUNN 224, and passed the bill as amended by the House.

On page 3, line 6, after "finds," strike "with or without a hearing" and insert "after a hearing" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5894.

Senator Haugen spoke in favor of the motion.

MOTION

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

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5894.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5894 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5894, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5894, 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, Brandland, Carrell, Delvin, 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

Voting nay: Senator Benton

Excused: Senators Brown, Eide and Jacobsen

ENGROSSED SENATE BILL NO. 5894, 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

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6108 with the following amendment: 6108-S.E AMH CONW STET 042

On page 2, after line 1, insert the following:

"Sec. 2. RCW 67.70.340 and 2005 c 369 s 4 are each amended to read as follows:

(1) The legislature recognizes that creating a shared game lottery could result in less revenue being raised by the existing state lottery ticket sales. The legislature further recognizes that the two funds most impacted by this potential event are the student achievement fund and the education construction account. Therefore, it is the intent of the legislature to use some of the proceeds from the shared game lottery to make up the difference that the potential state lottery revenue loss would have on the student achievement fund and the education construction account. The legislature further intends to use some of the proceeds from the shared game lottery to fund programs and services related to problem and pathological gambling.

(2) The student achievement fund and the education construction account are expected to collectively receive one hundred two million dollars annually from state lottery games other than the shared game lottery. For fiscal year 2003 and thereafter, if the amount of lottery revenues earmarked for the student achievement fund and the education construction account is less than one hundred two million dollars, the commission, after making the transfer required under subsection (3) of this section, must transfer sufficient moneys from revenues derived from the shared game lottery into the student achievement fund and the education construction account to bring the total revenue up to one hundred two million dollars. The funds transferred from the shared game lottery account under this subsection must be divided between the student achievement fund and the education construction account in a manner consistent with RCW 67.70.240(3).

(3) (a) The commission shall transfer, from revenue derived from the shared game lottery, to the problem gambling account created in RCW 43.20A.892, an amount equal to the percentage specified in (b) of this subsection of net receipts. For purposes of this subsection, "net receipts" means the difference between (i) revenue received from the sale of lottery tickets or shares and revenue received from the sale of shared game lottery tickets or shares; and (ii) the sum of payments made to winners.

(b) In fiscal year 2006, the percentage to be transferred to the problem gambling account is one-tenth of one percent. In fiscal year 2007 and subsequent fiscal years, the percentage to be transferred to the problem gambling account is thirteen one-hundredths of one percent.

(4) The commission shall transfer the remaining net revenues, if any, derived from the shared game lottery "Powerball" authorized in section 1(1) of this act after the transfers pursuant to this section into the state general fund for the student achievement program under RCW 28A.505.220.

~~((4))~~ (5) The remaining net revenues, if any, in the shared game lottery account after the transfers pursuant to this section shall be deposited into the general fund."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

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MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6108.

Senators Prentice and Sheldon spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senator Rockefeller was excused.

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 Engrossed Substitute Senate Bill No. 6108.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6108 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6108, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6108, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Berkey, Brandland, Delvin, Franklin, Fraser, Hatfield, Hewitt, Hobbs, Holmquist, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Fairley, Hargrove, Haugen, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Swecker

Excused: Senators Brown, Eide and Jacobsen

ENGROSSED SUBSTITUTE SENATE BILL NO. 6108, 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

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9145, Bernal Baca, as a member of the State Board of Education, be confirmed.

Senators Prentice and Keiser spoke in favor of passage of the motion.

APPOINTMENT OF BERNAL BACA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9145, Bernal Baca as a member of the State Board of Education.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9145, Bernal Baca as a member

of the State Board of Education and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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 Eide and Jacobsen

Gubernatorial Appointment No. 9145, Bernal Baca, having received the constitutional majority was declared confirmed as a member of the State Board of Education.

MOTION

On motion of McDermott, the rules were suspended and the Senate, with a single vote, considered the confirmations of Gubernatorial Appointments and the vote of the Senate was recorded as a separate vote for each appointment.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kline moved that Gubernatorial Appointment No. 9043, Russell D. Hauge; Gubernatorial Appointment No. 9045, Ann C. Heath; Gubernatorial Appointment No. 9089, Lenell Nussbaum and Gubernatorial Appointment No. 9097, Lynda J. Ring Erickson as members of the Sentencing Guidelines Commission be confirmed.

Senator Kline spoke in favor of the motion.

APPOINTMENT OF RUSSELL D. HAUGE

The President declared the question before the Senate to be the confirmations of Gubernatorial Appointment No. 9043, Russell D. Hauge; Gubernatorial Appointment No. 9045, Ann C. Heath; Gubernatorial Appointment No. 9089, Lenell Nussbaum and Gubernatorial Appointment No. 9097, Lynda J. Ring Erickson as members of the Sentencing Guidelines Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9043, Russell D. Hauge as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-

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Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Eide, Jacobsen, Prentice and Rockefeller

APPOINTMENT OF ANN C. HEATH

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9045, Ann C. Heath, as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Eide, Jacobsen, Prentice and Rockefeller

APPOINTMENT OF LENELL NUSSBAUM

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9089, Lenell Nussbaum as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Eide, Jacobsen, Prentice and Rockefeller

APPOINTMENT OF LYNDA J. RING ERICKSON

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9097, Lynda J. Ring Erickson as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Eide, Jacobsen, Prentice and Rockefeller
Gubernatorial Appointment No. 9043, Russell D. Hauge; Gubernatorial Appointment No. 9045, Ann C. Heath; Gubernatorial Appointment No. 9089, Lenell Nussbaum and Gubernatorial Appointment No. 9097, Lynda J. Ring Erickson, having received the constitutional majority were declared confirmed as members of the Sentencing Guidelines Commission.

MOTION

Senator Kline moved that Gubernatorial Appointment No. 9105, Dan Satterberg; Gubernatorial Appointment No. 9128, Stephen Warning and Gubernatorial Appointment No. 9147, Paul A. Pastor as members of the Sentencing Guidelines Commission be confirmed.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Marr, Senator Brown was excused.

Senator Kline spoke in favor of the motion.

APPOINTMENT OF DAN SATTERBERG

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9105, Dan Satterberg; Gubernatorial Appointment No. 9128, Stephen Warning and Gubernatorial Appointment No. 9147, Paul A. Pastor as members of the Sentencing Guidelines Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9105, Dan Satterberg as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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 Eide and Jacobsen

APPOINTMENT OF STEPHEN WARNING

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9128, Stephen Warning as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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 Eide and Jacobsen

APPOINTMENT OF PAUL A. PASTOR

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9147, Paul A. Pastor as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-

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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 Eide and Jacobsen

Gubernatorial Appointment No. 9105, Dan Satterberg; Gubernatorial Appointment No. 9128, Stephen Warning and Gubernatorial Appointment No. 9147, Paul A. Pastor, having received the constitutional majorities were declared confirmed as members of the Sentencing Guidelines Commission.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9026, Edward Davila, as a member of the Board of Trustees, Highline Community College District No. 9, be confirmed.

Senator Prentice spoke in favor of the motion.

MOTION

On motion of Senator Holmquist, Senator Honeyford was excused.

APPOINTMENT OF EDWARD DAVILA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9026, Edward Davila as a member of the Board of Trustees, Highline Community College District No. 9.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9026, Edward Davila as a member of the Board of Trustees, Highline Community College District No. 9 and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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

Excused: Senators Eide, Honeyford and Jacobsen

Gubernatorial Appointment No. 9026, Edward Davila, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Highline Community College District No. 9.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9014, Ethelda Burke, as a member of the Higher Education Coordinating Board, be confirmed.

Senator Fraser spoke in favor of the motion.

APPOINTMENT OF ETHELDA BURKE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9014,

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Ethelda Burke as a member of the Higher Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9014, Ethelda Burke as a member of the Higher Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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 Eide and Jacobsen

Gubernatorial Appointment No. 9014, Ethelda Burke, having received the constitutional majority was declared confirmed as a member of the Higher Education Coordinating Board.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Keiser moved that Gubernatorial Appointment No. 9003, Dan Altmayer, as a member of the Board of Trustees, Highline Community College District No. 9, be confirmed.

Senator Keiser spoke in favor of the motion.

APPOINTMENT OF DAN ALTMAYER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9003, Dan Altmayer as a member of the Board of Trustees, Highline Community College District No. 9.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9003, Dan Altmayer as a member of the Board of Trustees, Highline Community College District No. 9 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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 Eide and Jacobsen

Gubernatorial Appointment No. 9003, Dan Altmayer, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Highline Community College District No. 9.

PERSONAL PRIVILEGE

Senator McDermott: "As the paperwork is being passed out, I thought I'd just take this moment to wish my nephew Daniel a happy third birthday."

MOTION

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

REPORTS OF STANDING COMMITTEES

April 24, 2009

SB 6162 Prime Sponsor, Senator Prentice: Relating to criminal justice. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6162 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 Senator Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Honeyford; Parlette and Pflug.

Passed to Committee on Rules.

April 24, 2009

2SHB 2130 Prime Sponsor, Committee on Finance: Concerning tax incentives for renewable energy manufacturing facilities. 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; Zarelli; Brandland; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules.

April 24, 2009

HB 2331 Prime Sponsor, Representative Darneille: Concerning the existing document recording fee for services for the homeless. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, 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 Zarelli; Brandland; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules.

April 24, 2009

ESHB 2344 Prime Sponsor, Committee on Ways & Means: Regarding resident undergraduate tuition. 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 Zarelli; Honeyford; Parlette; Pflug and Schoesler.

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

Passed to Committee on Rules.

April 24, 2009

SHB 2346 Prime Sponsor, Committee on Ways & Means: Concerning crisis residential centers. 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; Zarelli; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Parlette and Pflug.

Passed to Committee on Rules.

April 24, 2009

SHB 2356 Prime Sponsor, Committee on Ways & Means: Revising student achievement fund allocations. 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; Oemig; Pridemore; Regala and Rockefeller.

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

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Pflug.

Passed to Committee on Rules.

April 24, 2009

EHB 2358 Prime Sponsor, Representative Conway: Increasing liquor license fees limited to fees for beer and/or wine restaurants; taverns; snack bars; combined beer and wine retailers; grocery stores; beer and/or wine specialty shops; passenger trains, vessels, and airplanes; spirits, beer, and wine restaurants; spirits, beer, and wine private clubs; beer and wine private clubs; and public houses. 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; McDermott; Oemig; Pridemore; Regala and Rockefeller.

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

SUBSTITUTE HOUSE BILL NO. 1292,
SUBSTITUTE HOUSE BILL NO. 1758,
SUBSTITUTE HOUSE BILL NO. 1845,
and the same are herewith transmitted.

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

BARBARA BAKER, Chief Clerk

Passed to Committee on Rules.

MOTION

On motion of Senator McDermott, the rules were suspended and all the measures listed on the Standing Committee report were placed on the day's second reading calendar.

MOTION

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

MOTION

At 2:57 p.m., on motion of Senator McDermott, the Senate was declared to be at ease subject to the call of the President.

SECOND READING

HOUSE BILL NO. 2331, by Representatives Darneille, Dickerson, Pettigrew, Kenney, Williams, Simpson, Nelson and Ormsby

The Senate was called to order at 4:03 p.m. by President Owen.

Concerning the existing document recording fee for services for the homeless.

The measure was read the second time.

MOTION

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

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2331 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MESSAGE FROM THE HOUSE

April 23, 2009

Senator Prentice spoke in favor of passage of the bill.

MR. PRESIDENT:

The House grants the request of Senate for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5352. The Speaker has appointed the following members as Conferees:

POINT OF ORDER

Representatives Clibborn, Lias and Roach.
and the same is herewith transmitted.

Senator Honeyford: "I believe this measure may require a super-majority vote under provisions of Initiative 960. House Bill No. 2331 adds twenty dollars to the filing fee recording documents within the county auditor or with the county auditor. Sixty percent of those funds are retained by the county to fight homelessness while forty percent goes to the state to fight homelessness. This bill raises state revenue. The fiscal note indicates the bill raised twenty million, six hundred ninety seven thousand, six hundred dollars in the state's home security fund account each biennium. This document recording fee is not a fee but a tax. There's no nexus between those paying the tax and those, use of those funds. The tax is paid by anyone recording a document with the county auditor. This includes documents which includes judgements, liens, deeds, mortgages, death certificates, birth certificates and marriage dissolutions. Those benefitting from this tax are the homeless and society as a whole, thus would be more properly termed a tax within a fee. My inquiry, Mr. President, is as to the application of the provision of 960 to this matter and whether a super-majority vote is needed for final passage."

BARBARA BAKER, Chief Clerk

Senator Tom spoke against the point of order.

MESSAGE FROM THE HOUSE

April 24, 2009

MR. PRESIDENT:

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

MOTION

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1018,
SUBSTITUTE HOUSE BILL NO. 1119,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1138,
SUBSTITUTE HOUSE BILL NO. 1170,
HOUSE BILL NO. 1533,
SUBSTITUTE HOUSE BILL NO. 1592,
ENGROSSED HOUSE BILL NO. 1815,
and the same are herewith transmitted.

On motion of Senator McDermott, further consideration of House Bill No. 2331 was deferred and the bill held its place on the second reading calendar.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 24, 2009

MR. PRESIDENT:

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

RULING BY THE PRESIDENT

President Owen: "In ruling upon the points of order raised by Senators Brandland and King as to whether the floor

SUBSTITUTE HOUSE BILL NO. 1239,

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amendments are beyond the scope and object of Substitute House Bill 1597, the President finds and rules as follows:

It is fair to characterize the underlying bill as being an omnibus measure which makes numerous corrections, technical changes, clarifications, and administrative changes to various state and local tax provisions. One of the amendments at issue relates to the point at which natural and manufactured gas is taxed; the other amendment relates to the taxation of bunker fuel.

The Senators are correct that the amendments may be properly viewed as fairly substantive changes to Washington's tax law. In and of itself, however, this argument is not dispositive. The question is not whether or not major policy changes are being proposed; rather, the question is whether those policy changes fit within the subject matter of the underlying bill. The body—and, for that matter, the individual members—may have different opinions as to what may properly be termed a technical clean-up bill. It is for this reason that the President does not rely on such shorthand descriptions for his analysis, but instead compares the amendments to the plain language of the underlying bill in its entirety. In this case, the President believes that this omnibus bill contains a host of substantive tax changes which can include the subjects within the proposed amendments.

For these reasons, the President finds that the amendments are within the scope and object of the underlying bill and properly before the body for consideration."

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Keiser moved that Gubernatorial Appointment No. 9095, Barbara Reid, as a member of the Board of Trustees, Highline Community College District No. 9, be confirmed.

Senator Keiser spoke in favor of the motion.

APPOINTMENT OF BARBARA REID

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9095, Barbara Reid as a member of the Board of Trustees, Highline Community College District No. 9.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9095, Barbara Reid as a member of the Board of Trustees, Highline Community College District No. 9 and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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: Senator Eide

Gubernatorial Appointment No. 9095, Barbara Reid, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Highline Community College District No. 9.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9127, Mario M. Villanueva, as a member of the Housing Finance Commission, be confirmed.

APPOINTMENT OF MARIO M. VILLANUEVA

Senator Prentice spoke in favor of the motion.

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9127, Mario M. Villanueva as a member of the Housing Finance Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9127, Mario M. Villanueva as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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: Senator Eide

Gubernatorial Appointment No. 9127, Mario M. Villanueva, having received the constitutional majority was declared confirmed as a member of the Housing Finance Commission.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2254, by House Committee on Capital Budget (originally sponsored by Representatives White, Dunshee and Kenney)

Concerning construction financing for colleges and universities.

The measure was read the second time.

MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.15.210 and 1985 c 390 s 20 are each amended to read as follows:

Within thirty-five days from the date of collection thereof, all building fees at the University of Washington, including building fees to be charged students registering in the schools of medicine and dentistry, shall be paid into the state treasury and credited as follows:

One-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of the bond retirement fund(~~(, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter, and thirty-seven dollars and fifty cents per each nonresident student per quarter))~~) to the "University of

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Washington bond retirement fund" and the remainder thereof to the "University of Washington building account." The sum so credited to the University of Washington building account shall be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings, and for certificates of participation under chapter 39.94 RCW, except for any sums transferred as authorized in RCW 28B.20.725(3). The sum so credited to the University of Washington bond retirement fund shall be used for the payment of principal of and interest on bonds outstanding as provided by chapter 28B.20 RCW except for any sums transferred as authorized in RCW 28B.20.725(5).

Sec. 2. RCW 28B.15.310 and 1985 c 390 s 22 are each amended to read as follows:

Within thirty-five days from the date of collection thereof, all building fees shall be paid ~~(into the state treasury)~~ and credited as follows: To the Washington State University bond retirement fund, one-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of such bond retirement fund; and the remainder thereof to the Washington State University building account.

The sum so credited to the Washington State University building account shall be expended by the board of regents for buildings, equipment, or maintenance on the campus of Washington State University as may be deemed most advisable and for the best interests of the university, and for certificates of participation under chapter 39.94 RCW, except for any sums transferred as authorized by law. Expenditures so made shall be accounted for in accordance with existing law and shall not be expended until appropriated by the legislature.

The sum so credited to the Washington State University bond retirement fund shall be used to pay and secure the payment of the principal of and interest on building bonds issued by the university, except for any sums which may be transferred out of such fund as authorized by law.

Sec. 3. RCW 28B.20.720 and 1985 c 390 s 39 are each amended to read as follows:

For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there is created in the custody of the state treasurer a special trust fund to be known as the University of Washington bond retirement fund. An appropriation is not required for expenditures from the fund. There shall be paid into the ~~((state treasury and credited to a special trust fund to be known as the University of Washington bond retirement))~~ fund, the following:

(1) One-half of such building fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund ~~((, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter and less than thirty-seven dollars and fifty cents per each nonresident student per quarter));~~

(2) Any gifts, bequests, or grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

~~((Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall.))~~ While any ~~((of such))~~ bonds issued in accordance with the provisions of this chapter or any interest thereon remain ~~((s))~~ unpaid, the bond retirement fund shall be available solely for the payment thereof except as provided in RCW 28B.20.725(5). As a part of the contract of sale of such bonds, the board undertakes to charge and collect building fees and to deposit the portion of such fees

in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding.

Sec. 4. RCW 28B.30.740 and 1985 c 390 s 44 are each amended to read as follows:

For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there is created in the custody of the state treasurer a special trust fund to be known as the Washington State University bond retirement fund. An appropriation is not required for expenditures from the fund. There shall be paid into the ~~((state treasury and credited to a special trust fund to be known as the Washington State University bond retirement fund, which fund is hereby created in the state treasury))~~ fund, the following:

(1) One-half of such building fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund;

(2) Any grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

~~((Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall.))~~ While any ~~((of such))~~ bonds issued in accordance with the provisions of this chapter or any interest thereon remain unpaid, the bond retirement fund shall be available solely for the payment thereof except as provided in ~~((subdivision (5) of))~~ RCW 28B.30.750(5). As a part of the contract of sale of such bonds, the board shall undertake to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding.

Sec. 5. RCW 28B.35.370 and 1991 sp.s. c 13 s 49 are each amended to read as follows:

Within thirty-five days from the date of collection thereof all building fees of each regional university and The Evergreen State College shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.35.751 as are received by the state treasury shall be credited as follows:

(1) On or before June 30th of each year the board of trustees of each regional university and The Evergreen State College, if issuing bonds payable out of its building fees and above described normal school fund revenues, shall certify to the state treasurer the amounts required in the ensuing twelve months to pay and secure the payment of the principal of and interest on such bonds. The amounts so certified by each regional university and The Evergreen State College shall be a prior lien and charge against all building fees and above described normal school fund revenues of such institution. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington University capital projects account, the Central Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The amounts deposited in the respective capital projects accounts shall be used ~~((exclusively))~~ to pay and secure the payment of the principal of and interest on the building bonds issued by such regional universities and The Evergreen State College as authorized by law. If in any twelve month period it shall appear that the amount certified by any such board of trustees is insufficient to pay and secure the payment of the principal of and interest on the outstanding building and above described

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normal school fund revenue bonds of its institution, the state treasurer shall notify the board of trustees and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal of and interest on all such bonds then outstanding shall be fully met at all times.

(2) All normal school fund revenue pursuant to RCW 28B.35.751 shall be deposited in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The sums deposited in the respective capital projects accounts shall be appropriated and expended (~~(exclusively)~~) to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and normal school revenue and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto except for any sums transferred therefrom as authorized by law.

(3) Funds available in the respective capital projects accounts may also be used for certificates of participation under chapter 39.94 RCW.

Sec. 6. RCW 28B.50.360 and 2005 c 488 s 922 are each amended to read as follows:

Within thirty-five days from the date of start of each quarter all collected building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be (~~(exclusively)~~) devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended (~~(exclusively)~~) to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, engineering and architectural services provided by the department of general administration, and for the payment of principal of and interest on any bonds issued for such purposes.

(3) Funds available in the community and technical college capital projects account may also be used for certificates of

participation under chapter 39.94 RCW."

On page 1, line 2 of the title, after "universities;" strike the remainder of the title and insert "and amending RCW 28B.15.210, 28B.15.310, 28B.20.720, 28B.30.740, 28B.35.370, and 28B.50.360."

The President declared the question before the Senate to be the motion by Senator Fraser to not adopt of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2254.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.15.210 and 1985 c 390 s 20 are each amended to read as follows:

Within thirty-five days from the date of collection thereof, all building fees at the University of Washington, including building fees to be charged students registering in the schools of medicine and dentistry, shall be paid into the state treasury and credited as follows:

One-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of the bond retirement fund(~~(, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter, and thirty-seven dollars and fifty cents per each nonresident student per quarter)~~) to the "University of Washington bond retirement fund" and the remainder thereof to the "University of Washington building account." The sum so credited to the University of Washington building account shall be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings, and for certificates of participation under chapter 39.94 RCW, except for any sums transferred as authorized in RCW 28B.20.725(3). The sum so credited to the University of Washington bond retirement fund shall be used for the payment of principal of and interest on bonds outstanding as provided by chapter 28B.20 RCW except for any sums transferred as authorized in RCW 28B.20.725(5).

Sec. 2. RCW 28B.15.310 and 1985 c 390 s 22 are each amended to read as follows:

Within thirty-five days from the date of collection thereof, all building fees shall be paid (~~(into the state treasury)~~) and credited as follows: To the Washington State University bond retirement fund, one-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of such bond retirement fund; and the remainder thereof to the Washington State University building account.

The sum so credited to the Washington State University building account shall be expended by the board of regents for buildings, equipment, or maintenance on the campus of Washington State University as may be deemed most advisable and for the best interests of the university, and for certificates of participation under chapter 39.94 RCW, except for any sums transferred as authorized by law. Expenditures so made shall be accounted for in accordance with existing law and shall not be expended until appropriated by the legislature.

The sum so credited to the Washington State University bond retirement fund shall be used to pay and secure the payment of the principal of and interest on building bonds issued by the university, except for any sums which may be transferred out of such fund as authorized by law.

Sec. 3. RCW 28B.20.720 and 1985 c 390 s 39 are each amended to read as follows:

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For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there is created in the custody of the state treasurer a special trust fund to be known as the University of Washington bond retirement fund. An appropriation is not required for expenditures from the fund. There shall be paid into the ~~((state treasury and credited to a special trust fund to be known as the University of Washington bond retirement))~~ fund, the following:

(1) One-half of such building fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund ~~((and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter and less than thirty-seven dollars and fifty cents per each nonresident student per quarter))~~;

(2) Any gifts, bequests, or grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

~~((Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall.))~~ While any ~~((of such))~~ bonds issued in accordance with the provisions of this chapter or any interest thereon remain ~~((s))~~ unpaid, the bond retirement fund shall be available solely for the payment thereof except as provided in RCW 28B.20.725(5). As a part of the contract of sale of such bonds, the board undertakes to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding.

Sec. 4. RCW 28B.30.740 and 1985 c 390 s 44 are each amended to read as follows:

For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there is created in the custody of the state treasurer a special trust fund to be known as the Washington State University bond retirement fund. An appropriation is not required for expenditures from the fund. There shall be paid into the ~~((state treasury and credited to a special trust fund to be known as the Washington State University bond retirement fund, which fund is hereby created in the state treasury))~~ fund, the following:

(1) One-half of such building fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund;

(2) Any grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

~~((Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall.))~~ While any ~~((of such))~~ bonds issued in accordance with the provisions of this chapter or any interest thereon remain unpaid, the bond retirement fund shall be available solely for the payment thereof except as provided in ~~((subdivision (5) of))~~ RCW 28B.30.750(5). As a part of the contract of sale of such bonds, the board shall undertake to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding.

Sec. 5. RCW 28B.35.370 and 1991 sp.s. c 13 s 49 are each amended to read as follows:

Within thirty-five days from the date of collection thereof all building fees of each regional university and The Evergreen State College shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.35.751 as are received by the state treasury shall be credited as follows:

(1) On or before June 30th of each year the board of trustees of each regional university and The Evergreen State College, if

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issuing bonds payable out of its building fees and above described normal school fund revenues, shall certify to the state treasurer the amounts required in the ensuing twelve months to pay and secure the payment of the principal of and interest on such bonds. The amounts so certified by each regional university and The Evergreen State College shall be a prior lien and charge against all building fees and above described normal school fund revenues of such institution. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account respectively, which accounts are hereby created in the state treasury. The amounts deposited in the respective capital projects accounts shall be used ~~((exclusively))~~ to pay and secure the payment of the principal of and interest on the building bonds issued by such regional universities and The Evergreen State College as authorized by law. If in any twelve month period it shall appear that the amount certified by any such board of trustees is insufficient to pay and secure the payment of the principal of and interest on the outstanding building and above described normal school fund revenue bonds of its institution, the state treasurer shall notify the board of trustees and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal of and interest on all such bonds then outstanding shall be fully met at all times.

(2) All normal school fund revenue pursuant to RCW 28B.35.751 shall be deposited in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The sums deposited in the respective capital projects accounts shall be appropriated and expended ~~((exclusively))~~ to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and normal school revenue and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto except for any sums transferred therefrom as authorized by law.

(3) Funds available in the respective capital projects accounts may also be used for certificates of participation under chapter 39.94 RCW.

Sec. 6. RCW 28B.50.360 and 2005 c 488 s 922 are each amended to read as follows:

Within thirty-five days from the date of start of each quarter all collected building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be ~~((exclusively))~~ devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

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(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended (~~(exclusively)~~) to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, engineering and architectural services provided by the department of general administration, and for the payment of principal of and interest on any bonds issued for such purposes.

(3) Funds available in the community and technical college capital projects account may also be used for certificates of participation under chapter 39.94 RCW.

Sec. 7. RCW 28B.20.715 and 1985 c 390 s 38 are each amended to read as follows:

For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

- (1) Shall not constitute
 - (a) An obligation, either general or special, of the state; or
 - (b) A general obligation of the University of Washington or of the board;
- (2) Shall be
 - (a) Either registered or in coupon form; and
 - (b) Issued in denominations of not less than one hundred dollars; and
 - (c) Fully negotiable instruments under the laws of this state; and
 - (d) Signed on behalf of the university by the president of the board, attested by the secretary of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;
- (3) Shall state
 - (a) The date of issue; and
 - (b) The series of the issue and be consecutively numbered within the series; and
 - (c) That, except as otherwise provided in subsection (8)(e) of this section, the bond is payable both principal and interest solely out of the bond retirement fund;
 - (4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;
 - (5) Shall be payable both principal and interest out of the bond retirement fund;
 - (6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;
 - (7) Shall be sold in such manner and at such price as the board may prescribe;
 - (8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with this chapter, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement fund, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the University of Washington building account to the bond retirement fund when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued;

(e) A covenant to obligate, to pay the principal of or interest on the bonds, all or a component of the fees and revenues of the University of Washington that are not subject to appropriation by the legislature and that do not constitute general state revenues as defined in Article VIII, section 1 of the state Constitution or general state revenues for the purpose of calculating statutory limits on state indebtedness pursuant to RCW 39.42.060.

~~The proceeds of the sale of all bonds (exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the University of Washington building account and) issued in accordance with this chapter shall be used solely for paying the costs of the projects, including costs of issuance and other financing costs.~~

Sec. 8. RCW 28B.20.735 and 1985 c 390 s 40 are each amended to read as follows:

The bonds authorized to be issued pursuant to the provisions of RCW 28B.20.700 through 28B.20.740 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special fund created for their payment (~~(derived from the building fees)~~) as herein provided. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.20.700 through 28B.20.740 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington.

Sec. 9. RCW 28B.30.730 and 2002 c 238 s 302 are each amended to read as follows:

For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

- (1) Shall not constitute
 - (a) An obligation, either general or special, of the state; or
 - (b) A general obligation of Washington State University or of the board;
- (2) Shall be
 - (a) Either registered or in coupon form; and
 - (b) Issued in denominations of not less than one hundred dollars; and
 - (c) Fully negotiable instruments under the laws of this state; and
 - (d) Signed on behalf of the university by the president of the board, attested by the secretary or the treasurer of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;
- (3) Shall state
 - (a) The date of issue; and
 - (b) The series of the issue and be consecutively numbered within the series; and

(d) Signed on behalf of the university by the president of the board, attested by the secretary or the treasurer of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;

- (3) Shall state
 - (a) The date of issue; and
 - (b) The series of the issue and be consecutively numbered within the series; and

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(c) That, except as otherwise provided in subsection (8)(e) of this section, the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.30.700 through 28B.30.780, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement account, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the Washington State University building account to the bond retirement account when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement account to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued;

(e) A covenant to obligate, to pay the principal of or interest on the bonds, all or a component of the fees and revenues of Washington State University that are not subject to appropriation by the legislature and that do not constitute general state revenues as defined in Article VIII, section 1 of the state Constitution or general state revenues for the purpose of calculating statutory limits on state indebtedness pursuant to RCW 39.42.060.

The proceeds of the sale of all bonds ((shall be deposited in the state treasury to the credit of the Washington State University building account and)) issued in accordance with this chapter shall be used solely for paying the costs of the projects, including costs of issuance and other financing costs. The Washington State University building account shall be credited with the investment income derived pursuant to RCW 43.84.080 on the investable balances of scientific permanent fund and agricultural permanent fund, less the allocation to the state treasurer's service fund pursuant to RCW 43.08.190. ((During the 2001-2003 fiscal biennium, the legislature may transfer from the Washington State University building account to the state general fund such amounts as reflect the excess fund balance of the account:))"

Senators Fraser and Brandland spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Fraser and Brandland to Engrossed Substitute House Bill No. 2254.

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

MOTION

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

On page 1, line 2 of the title, after "universities;" strike the remainder of the title and insert "and amending RCW 28B.15.210, 28B.15.310, 28B.20.720, 28B.30.740, 28B.35.370, 28B.50.360, 28B.20.715, 28B.20.735, and 28B.30.730."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 2254 as amended by the Senate 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. 2254 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2254 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, 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: Senator Eide

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2254 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2339, by House Committee on Ways & Means (originally sponsored by Representatives Kessler, Seaquist, Roberts, Williams, Simpson, Nelson, Ormsby, Dunshee, Goodman, Pedersen, Cody, Hasegawa, Kirby, Maxwell, Upthegrove, Finn, Eddy, Hunt, Orwall, Rolfes, Morrell, Kenney, Clibborn, Morris, Green, Kagi, Chase, Sells, Wood, Flannigan, Ericks, McCoy, Campbell, Appleton, Pettigrew, White, Blake, Linville, Wallace, Conway, Carlyle, Miloscia, Takko, O'Brien, Hurst and Van De Wege)

Requiring the department of licensing to collect a donation to benefit the state parks system as part of motor vehicle registration unless a vehicle owner opts not to provide a donation.

The measure was read the second time.

MOTION

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

On page 1, line 17, after "owner" strike "actively opting not" and insert "not actively opting"

On page 1, line 18, after "that the" strike "opt-out" and insert "opt-in"

Senator Holmquist spoke in favor of adoption of the

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amendment.

Senators Jacobsen and Prentice spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist and Benton on page 1, line 17 to Substitute House Bill No. 2339.

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

MOTION

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

On page 2, line 1, after "displayed in", insert "at least fourteen point bold font in"

Senator Benton spoke in favor of adoption of the amendment.

Senator Prentice spoke against adoption of the amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Benton, the amendment by Senator Benton on page 2, line 1 to Substitute House Bill No. 2339 was withdrawn.

MOTION

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

On page 2, line 3, after "renewal." insert "The department shall post signs at each location where vehicles may be registered notifying the public that the donation authorized in this section is voluntary."

Senators Becker and Schoesler spoke in favor of adoption of the amendment.

Senator Prentice spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Becker and others on page 2, line 3 to Substitute House Bill No. 2339.

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

MOTION

Senator King moved that the following striking amendment by Senators King and Delvin be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79A.15.020 and 2007 c 241 s 27 are each amended to read as follows:

The habitat conservation account is established in the state treasury. The board shall administer the account in accordance with chapter 79A.25 RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the board. By January 1, 2010, the state treasurer shall transfer from the habitat conservation account to the parks renewal and stewardship account created in RCW 79A.05.215, five million seven hundred fifty thousand dollars.

Sec. 2. RCW 79A.15.120 and 2009 c 16 s 2 are each amended to read as follows:

(1) The riparian protection account is established in the state treasury. The board must administer the account in accordance with chapter 79A.25 RCW and this chapter, and hold it separate

and apart from all other money, funds, and accounts of the board.

(2) Moneys appropriated for this chapter to the riparian protection account must be distributed for the acquisition or enhancement or restoration of riparian habitat. All enhancement or restoration projects, except those qualifying under subsection (9)(a) of this section, must include the acquisition of a real property interest in order to be eligible.

(3) State and local agencies and lead entities under chapter 77.85 RCW may apply for acquisition and enhancement or restoration funds for riparian habitat projects under subsection (1) of this section. Other state agencies not defined in RCW 79A.15.010, such as the department of transportation and the department of corrections, may enter into interagency agreements with state agencies to apply in partnership for funds under this section.

(4) The board may adopt rules establishing acquisition policies and priorities for distributions from the riparian protection account.

(5) Except as provided in RCW 79A.15.030(7), moneys appropriated for this section may not be used by the board to fund staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter.

(6) Moneys appropriated for this section may be used by grant recipients for costs incidental to restoration and acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(7) The board may not approve a local project where the local agency share is less than the amount to be awarded from the riparian protection account. In-kind contributions, including contributions of a real property interest in land may be used to satisfy the local agency's share.

(8) State agencies receiving grants for acquisition of land under this section must pay an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due.

(9) In determining acquisition priorities with respect to the riparian protection account, the board must consider, at a minimum, the following criteria:

(a) Whether the project continues the conservation reserve enhancement program. Applications that extend the duration of leases of riparian areas that are currently enrolled in the conservation reserve enhancement program shall be eligible. Such applications are eligible for a conservation lease extension of at least twenty-five years of duration;

(b) Whether the projects are identified or recommended in a watershed planning process under chapter 247, Laws of 1998, salmon recovery planning under chapter 77.85 RCW, or other local plans, such as habitat conservation plans, and these must be highly considered in the process;

(c) Whether there is community support for the project;

(d) Whether the proposal includes an ongoing stewardship program that includes control of noxious weeds, detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(e) Whether there is an immediate threat to the site;

(f) Whether the quality of the habitat is improved or, for projects including restoration or enhancement, the potential for

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restoring quality habitat including linkage of the site to other high quality habitat;

(g) Whether the project is consistent with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(h) Whether the site has educational or scientific value; and

(i) Whether the site has passive recreational values for walking trails, wildlife viewing, or the observation of natural settings.

(10) Before November 1st of each even-numbered year, the board will recommend to the governor a prioritized list of projects to be funded under this section. The governor may remove projects from the list recommended by the board and will submit this amended list in the capital budget request to the legislature. The list must include, but not be limited to, a description of each project and any particular match requirement.

(11) By January 1, 2010, the state treasurer shall transfer from the riparian protection account to the parks renewal and stewardship account created in RCW 79A.05.215, five million seven hundred fifty thousand dollars.

Sec. 3. RCW 79A.15.130 and 2007 c 241 s 38 are each amended to read as follows:

(1) The farmlands preservation account is established in the state treasury. The board will administer the account in accordance with chapter 79A.25 RCW and this chapter, and hold it separate and apart from all other money, funds, and accounts of the board. Moneys appropriated for this chapter to the farmlands preservation account must be distributed for the acquisition and preservation of farmlands in order to maintain the opportunity for agricultural activity upon these lands.

(2)(a) Moneys appropriated for this chapter to the farmlands preservation account may be distributed for (i) the fee simple or less than fee simple acquisition of farmlands; (ii) the enhancement or restoration of ecological functions on those properties; or (iii) both. In order for a farmland preservation grant to provide for an environmental enhancement or restoration project, the project must include the acquisition of a real property interest.

(b) If a city or county acquires a property through this program in fee simple, the city or county shall endeavor to secure preservation of the property through placing a conservation easement, or other form of deed restriction, on the property which dedicates the land to agricultural use and retains one or more property rights in perpetuity. Once an easement or other form of deed restriction is placed on the property, the city or county shall seek to sell the property, at fair market value, to a person or persons who will maintain the property in agricultural production. Any moneys from the sale of the property shall either be used to purchase interests in additional properties which meet the criteria in subsection (9) of this section, or to repay the grant from the state which was originally used to purchase the property.

(3) Cities and counties may apply for acquisition and enhancement or restoration funds for farmland preservation projects within their jurisdictions under subsection (1) of this section.

(4) The board may adopt rules establishing acquisition and enhancement or restoration policies and priorities for distributions from the farmlands preservation account.

(5) The acquisition of a property right in a project under this section by a county or city does not provide a right of access to

the property by the public unless explicitly provided for in a conservation easement or other form of deed restriction.

(6) Except as provided in RCW 79A.15.030(7), moneys appropriated for this section may not be used by the board to fund staff positions or other overhead expenses, or by a city or county to fund operation or maintenance of areas acquired under this chapter.

(7) Moneys appropriated for this section may be used by grant recipients for costs incidental to restoration and acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(8) The board may not approve a local project where the local agency's share is less than the amount to be awarded from the farmlands preservation account. In-kind contributions, including contributions of a real property interest in land, may be used to satisfy the local agency's share.

(9) In determining the acquisition priorities, the board must consider, at a minimum, the following criteria:

(a) Community support for the project;

(b) A recommendation as part of a limiting factors or critical pathways analysis, a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort;

(c) The likelihood of the conversion of the site to nonagricultural or more highly developed usage;

(d) Consistency with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(e) Benefits to salmonids;

(f) Benefits to other fish and wildlife habitat;

(g) Integration with recovery efforts for endangered, threatened, or sensitive species;

(h) The viability of the site for continued agricultural production, including, but not limited to:

(i) Soil types;

(ii) On-site production and support facilities such as barns, irrigation systems, crop processing and storage facilities, wells, housing, livestock sheds, and other farming infrastructure;

(iii) Suitability for producing different types or varieties of crops;

(iv) Farm-to-market access;

(v) Water availability; and

(i) Other community values provided by the property when used as agricultural land, including, but not limited to:

(i) Viewshed;

(ii) Aquifer recharge;

(iii) Occasional or periodic collector for storm water runoff;

(iv) Agricultural sector job creation;

(v) Migratory bird habitat and forage area; and

(vi) Educational and curriculum potential.

(10) In allotting funds for environmental enhancement or restoration projects, the board will require the projects to meet the following criteria:

(a) Enhancement or restoration projects must further the ecological functions of the farmlands;

(b) The projects, such as fencing, bridging watercourses, replanting native vegetation, replacing culverts, clearing of waterways, etc., must be less than fifty percent of the acquisition cost of the project including any in-kind contribution by any party;

(c) The projects should be based on accepted methods of achieving beneficial enhancement or restoration results; and

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ROLL CALL

(d) The projects should enhance the viability of the preserved farmland to provide agricultural production while conforming to any legal requirements for habitat protection.

(11) Before November 1st of each even-numbered year, the board will recommend to the governor a prioritized list of all projects to be funded under this section. The governor may remove projects from the list recommended by the board and must submit this amended list in the capital budget request to the legislature. The list must include, but not be limited to, a description of each project and any particular match requirement.

(12) By January 1, 2010, the state treasurer shall transfer from the farmlands preservation account to the parks renewal and stewardship account created in RCW 79A.05.215, five million seven hundred fifty thousand dollars.

Sec. 4. RCW 79A.25.060 and 2007 c 241 s 43 are each amended to read as follows:

The outdoor recreation account is created in the state treasury. Moneys in the account are subject to legislative appropriation. The board shall administer the account in accordance with chapter 79A.15 RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the board.

Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation, may be deposited into the account.

By January 1, 2010, the state treasurer shall transfer from the outdoor recreation account to the parks renewal and stewardship account created in RCW 79A.05.215, five million seven hundred fifty thousand dollars.

Sec. 5. RCW 79A.05.215 and 2007 c 340 s 2 are each amended to read as follows:

The state parks renewal and stewardship account is created in the state treasury. Except as otherwise provided in this chapter, all receipts from user fees, concessions, leases, donations collected under RCW 46.16.076, and other state park-based activities shall be deposited into the account. Expenditures from the account may be used for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship, and other state park purposes. Expenditures from the account may be made only after appropriation by the legislature. All transfers into the parks renewal and stewardship account from the riparian protection account, the habitat conservation account, the outdoor recreation account, and the farmlands preservation account must be used for the maintenance and operations of state parks.

On page 1, line 1 of the title, after "Relating to", strike the remainder of the title and insert "providing funding for the maintenance and operations of state parks; amending RCW 79A.15.020, 79A.15.120, 79A.15.130, 79A.25.060, and 79A.05.215."

Senators King, Sheldon, Benton and Schoesler spoke in favor of adoption of the striking amendment.

Senators Prentice, Jacobsen and Fraser spoke against adoption of the striking amendment.

Senator Schoesler demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators King and Delvin to Substitute House Bill No. 2339.

The Secretary called the roll on the adoption of the striking amendment by Senator King and the amendment was not adopted by the following vote: Yeas, 18; Nays, 30; Absent, 0; Excused, 1.

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

Voting nay: Senators Berkey, Brandland, Brown, 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

Excused: Senator Eide

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2339 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2339.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2339 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Brandland, Brown, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Benton, Berkey, Carrell, Delvin, Hewitt, Holmquist, Kastama, King, McCaslin, Morton, Murray, Pflug, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senator Eide

SUBSTITUTE HOUSE BILL NO. 2339, 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 McDermott, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 10, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5963 with the following amendments: 5963-S AMH GREE REIN 072, 5963-S AMH GREE REIN 071 & 5963-S AMH CONW REIN 077

On page 2, line 9, after "(1)(b)(i)" insert "or (2)(b)(i)"

On page 2, line 12, after "(1)(b)(v) through (x)" insert "or (2)(b)(v) through (x)"

On page 3, line 12, after "(1)(b)(iv) or (xi)" insert "or

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(2)(b)(iv) or (xi)"

On page 19, line 33, after "and" strike "for"

On page 22, beginning on line 2, after "amount." strike "Good cause reasons to leave work are limited to reasons listed in (b) of this subsection."

On page 23, line 18, after "beliefs;" strike "or"

On page 23, line 23, after "program" insert the following:

": or

(xii) The individual left work because continuing in employment would work an unreasonable hardship on the individual. "Unreasonable hardship" means a result not due to the individual's voluntary action that would cause a reasonable person to leave that employment. The circumstances must be based on existing facts, not conjecture, and the reasons for leaving work must be significant. An individual seeking to demonstrate unreasonable hardship must show that:

(A) The individual left work primarily for reasons connected with his or her employment;

(B) The work-connected reasons were of such a compelling nature they would have caused a reasonably prudent person to leave work; and

(C) The individual first exhausted all reasonable alternatives before leaving work, unless pursuing reasonable alternatives would have been futile"

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

"Sec. 4. RCW 50.20.120 and 2009 c 3 s 3 are each amended to read as follows:

Except as provided in RCW 50.20.--- (section 2, chapter 3, Laws of 2009), benefits shall be payable as provided in this section.

(1) For claims with an effective date on or after April 4, 2004, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of twenty-six times the weekly benefit amount, as determined in subsection (2) of this section, or one-third of the individual's base year wages under this title.

(2)(a) For claims with an effective date on or after April 24, 2005, and before January 3, 2010, an individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(b) For claims with an effective date on or after January 3, 2010, and before January 3, 2016:

(i) Except as provided in (ii) of this subsection, an individual's weekly benefit amount shall be an amount equal to four percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(ii) An individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest if the commissioner determines that:

(A) Additional compensation is payable pursuant to section 2002 of the American recovery and reinvestment act of 2009 or a substantially similar federal law, or pursuant to RCW 50.20.--- (section 2, chapter 3, Laws of 2009), or a substantially similar state law; or

(B) The balance in the unemployment compensation fund is an amount that will provide fewer than eight months of unemployment benefits.

(c) For claims with an effective date on or after January 3, 2016, an individual's weekly benefit amount shall be an amount

equal to four percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(3) The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th.

(a) The maximum amount payable weekly shall be either four hundred ninety-six dollars or sixty-three percent of the "average weekly wage" for the calendar year preceding such June 30th, whichever is greater.

(b) The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th.

(4) If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar."

Renumber the sections consecutively and correct any internal references accordingly.

Correct the title.

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

"Sec. 4. RCW 50.22.010 and 1993 c 483 s 15 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after a week for which there is an "on" indicator; and

(b) Ends with the third week after the first week for which there is an "off" indicator: PROVIDED, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of an "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state.

(2) There is an "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks:

(a) The rate of insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded five percent; or

(b) For benefits for weeks of unemployment beginning after March 6, 1993:

(i) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent; and

(ii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (b)(i) of this subsection, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(3) "High unemployment period" means any period of unemployment beginning after March 6, 1993, during which an extended benefit period would be in effect if:

(a) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for

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which data for all states are published before the close of the week equals or exceeds eight percent; and

(b) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a) of this subsection, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(4) There is an "off" indicator for this state for a week only if, for the period consisting of such week and immediately preceding twelve weeks, none of the options specified in subsection (2) or (3) of this section result in an "on" indicator.

(5) "Regular benefits" means benefits payable to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

(6) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than regular or additional benefits.

(7) "Additional benefits" are benefits totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(8) "Eligibility period" of an individual means:

(a) The period consisting of the weeks in his or her benefit year which begin in an extended benefit period that is in effect in this state and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period; or

(b) For an individual who is eligible for emergency unemployment compensation during the extended benefit period beginning February 15, 2009, the period consisting of the week ending February 28, 2009, through the week ending May 29, 2010.

(9) "Additional benefit eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an additional benefit period that is in effect and, if his or her benefit year ends within such additional benefit period, any weeks thereafter which begin in such period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were payable to him or her under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week; or

(b) Has received, prior to such week, all of the regular benefits that were available to him or her under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week, after the cancellation of some or all of his or her wage credits or the total or partial reduction of his or her rights to regular benefits: PROVIDED, That, for the purposes of (a) and (b), an individual shall be deemed to have received in his or her current benefit year all of the regular benefits that were payable to him or her, or available to him or her, as the case may be, even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original

monetary determination with respect to his or her current benefit year, he or she may subsequently be determined to be entitled to more regular benefits; or

(ii) By reason of the seasonal provisions of another state law, he or she is not entitled to regular benefits with respect to such week of unemployment (although he or she may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his or her current benefit year), and he or she is otherwise an exhaustee within the meaning of this section with respect to his or her right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

(iii) Having established a benefit year, no regular benefits are payable to him or her during such year because his or her wage credits were canceled or his or her right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His or her benefit year having ended prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the Federal Unemployment Tax Act, or the similar provision in any other state law; and

(d)(i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of Canada, unless the appropriate agency finally determines that he or she is not entitled to unemployment benefits under such law for such week.

(11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954."

Renumber the sections consecutively and correct any internal references accordingly.

On page 24, after line 2, insert the following:

"NEW SECTION. Sec. 6. Section 4 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 Marr moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5963 and ask the House to recede therefrom.

POINT OF ORDER

Senator Keiser: "Thank you Mr. President. Under Senate Rule No. 67 the Senate may consider whether or not to concur on single amendments that were passed by the other body. Those amendments are House amendments No. 556, 549 and amendment 550. I therefore demand under Senate Rule 31 that

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the question be divided with a separate vote on each of the House amendments and I demand a roll call vote.”

Senator Keiser demanded a roll call.

The President declared that one-sixth of the Senate did not support the demand and the demand was not sustained.

The President declared the question before the Senate to be motion by Senator Marr that the Senate refuse to concur in House amendment No. 556 to Substitute Senate Bill No. 5963 and ask the House to recede therefrom.

The motion by Senator Marr carried and the Senate refused to concur in the House amendment No. 556 to Substitute Senate Bill No. 5963 and asked the House to recede therefrom by voice vote.

Pursuant to Senate Rule 31, the President declared the question before the Senate to be motion by Senator Marr that the Senate refuse to concur in the House Amendment No. 549 to Substitute Senate Bill No. 5963 and ask the House to recede therefrom.

PARLIAMENTARY INQUIRY

Senator Brown: “Thank you Mr. President. There appears to be some confusion among the members on which amendment we’re considering. Would it be appropriate for someone to clarify which amendment we’re considering?”

REPLY BY THE PRESIDENT

President Owen: “It would have been Senator prior to the vote but now we’re in the middle of a vote and the division has been called for so we much take the division at this time.”

MOTION

Senator Brown: “Mr. President, I move that the senate go at ease subject to the call of the President.”

REPLY BY THE PRESIDENT

President Owen: “Senator Brown, the President still believes that we are in the middle of a vote and so your motion would not appropriate until after the vote count has been taken. Senator Brown, the amendment number the President would be happy to restate what that is, which is Amendment Number 549.”

PARLIAMENTARY INQUIRY

Senator Brown: “Thank you Mr. President, I’d like the members to have it in front of them. Would it be appropriate for the members to have the amendment in front of them Mr. President?”

REPLY BY THE PRESIDENT

President Owen: “Senator Brown, the difficulty is is that the rules say that you cannot interrupt a vote. Now, let me check and see if that includes a standing vote or just a roll call vote. Let the President take a moment to examine. Senator Kohl-Welles.”

PARLIAMENTARY INQUIRY

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Senator Kohl-Welles: “I was standing up actually to speak about that amendment and so that people would understand which amendment we were talking about. You did not call on me and...”

REPLY BY THE PRESIDENT

President Owen: “Senator Kohl-Welles, at the time, and again the President has reminded members to say, ‘Mr. President’ when you want to speak. I, sometimes I’m looking down, sometimes I’m not, but the President was not aware, as a matter of fact, what I saw was, Senator Brown stand up, Senator Brown sit down, Senator Kohl-Welles stand up, Senator Kohl-Welles sit down and Senator Kohl-Welles stand up again. Then I saw you Senator, so the President was somewhat confused at the point, at that point and so he continued on with the vote. Where we are at this point is, the voice vote has been taken, a division has been called for. Let the President look and see if, in fact, we can interrupt a division and if we can, we will.”

REMARKS BY THE PRESIDENT

President Owen: “Senator Brown, the President has looked at the rules and he finds that the rules are clear as to the taking of the Yeas and Nays during a roll call. It is not clear during the taking the vote during the division. The President believes that it is only appropriate that the members know specifically what they are voting on and the President is going to rule that your point is well taken and the President is going to allow for an explanation of the amendment that we are voting on. The President is not going to allow for a debate upon that motion. So, if someone would like to explain what that amendment is, the President would be happy to entertain that at this time. Senator Kohl-Welles.”

PARLIAMENTARY INQUIRY

Senator Kastama: “I see that on the screen that this is a motion to concur with amendment number 549 and yet I believe I heard you say the motion was to not concur. Is that correct?”

REPLY BY THE PRESIDENT

President Owen: “That is correct, the motion is to not concur.”

Senator Kohl-Welles spoke on the motion to not concur.

The motion by Senator Marr carried and the Senate refused to concur in the House amendment No. 549 to Substitute Senate Bill No. 5963 and asked the House to recede therefrom by a rising vote.

Pursuant to Senate Rule 31, the President declared the question before the Senate to be motion by Senator Marr that the Senate refuse to concur in the House Amendment No. 550 to Substitute Senate Bill No. 5963 and ask the House to recede therefrom.

Senator Holmquist, spoke in favor of the motion to not concur.

POINT OF ORDER

Senator Keiser: “I thought that this was not to be a speech

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for or against the amendment but an explanation of the amendment.”

REPLY BY THE PRESIDENT

President Owen: “No, Senator Keiser, that’s not correct. The difference was we were in the middle of a vote last time. The President allowed for an explanation. You are now allowed to debate to, your heart’s content up-to three minutes. As the President will reiterate, Senator Holmquist, up to three minutes.”

Senators King, Honeyford, Sheldon and Hargrove spoke in favor of not to concur.

Senators Keiser and Kohl-Welles spoke against the motion to not concur.

The motion by Senator Marr carried and the Senate refused to concur in the House Amendment No. 550 to Substitute Senate Bill No. 5963 and asked the House to recede therefrom by a rising vote.

PARLIAMENTARY INQUIRY

Senator Keiser: “When we did the first vote on Amendment Number 556, is my concern that members did not understand what we were voting on and that the resulting vote may have been an error. If I could just explain what Amendment Number 556 is, perhaps we could include it?”

REPLY BY THE PRESIDENT

President Owen: “Senator Keiser, the President believes that your only remedy is a motion to reconsider but not to stand up and make an explanation at this time. That would be neither a point of order nor would it be in order.”

PARLIAMENTARY INQUIRY

Senator Keiser: “Mr. President, may I make a motion to reconsider the vote on Amendment Number 556?”

REPLY BY THE PRESIDENT

President Owen: “Senator Keiser, in clarification, you must have been on the prevailing side in order to make a motion to reconsider and I’m pretty sure...”

PARLIAMENTARY INQUIRY

Senator Keiser: “May I explain what this amendment is?”

REPLY BY THE PRESIDENT

President Owen: “Senator Keiser, that would not be in order at this time.”

MESSAGE FROM THE HOUSE

April 22, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5768 with the following amendment:5768-S.E AMH ENGR H3051.E

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) The legislature finds that the replacement of the vulnerable state route number 99 Alaskan Way viaduct is a matter of urgency for the safety of Washington's traveling public and the needs of the transportation system in central Puget Sound. The state route number 99 Alaskan Way viaduct is susceptible to damage, closure, or catastrophic failure from earthquakes and tsunamis. Additionally, the viaduct serves as a vital route for freight and passenger vehicles through downtown Seattle.

Since 2001, the department has undertaken an extensive evaluation of multiple options to replace the Alaskan Way viaduct, including an initial evaluation of seventy-six conceptual alternatives and a more detailed analysis of five alternatives in 2004. In addition to a substantial technical review, the department has also undertaken considerable public outreach, which included consultation with a stakeholder advisory committee that met sixteen times over a thirteen-month period.

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

(2) The state route number 99 Alaskan Way viaduct replacement project finance plan must include state funding not to exceed two billion four hundred million dollars and must also include no more than four hundred million dollars in toll revenue. These funds must be used solely to build a replacement tunnel, as described in subsection (1) of this section, and to remove the existing state route number 99 Alaskan Way viaduct. All costs associated with city utility relocations for state work as described in this section must be borne by the city of Seattle and provided in a manner that meets project construction schedule requirements as determined by the department. State funding is not authorized for any utility relocation costs, or for central seawall or waterfront promenade improvements.

(3) The department shall provide updated cost estimates for construction of the bored tunnel and also for the full Alaskan Way viaduct replacement project to the legislature and governor by January 1, 2010. The department must also consult with independent tunnel engineering experts to review the estimates and risk assumptions. The department shall not enter into a design-build contract for construction of the bored tunnel until the report in this section has been submitted.

(4) Any contract the department enters into related to construction of the deep bored tunnel must include incentives and penalties to encourage on-time completion of the project and to minimize the potential for cost overruns.

(5) It is important that the public and policymakers have accurate and timely access to information related to the Alaskan Way viaduct replacement project as it proceeds to, and during, construction of all aspects of the project, specifically including but not limited to information regarding costs, schedules, contracts, project status, and neighborhood impacts. Therefore it is the intent of the legislature that the state, city, and county departments of transportation establish a single source of accountability for integration, coordination, tracking, and information of all requisite components of the replacement project, which must include, at minimum:

(a) A master schedule of all subprojects included in the full replacement project or program; and

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(b) A single point of contact for the public, media, stakeholders, and other interested parties.

(6)(a) The city and county departments of transportation shall be responsible for the cost, delivery, and associated risks of the project components for which each department is responsible, as outlined in the January 13, 2009, letter of agreement signed by the governor, city, and county.

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

(7) Compression brakes may be used by authorized motor vehicles in the deep bore tunnel in a manner consistent with the requirements of RCW 46.37.395.

NEW SECTION. Sec. 2. The department of transportation must prepare a traffic and revenue study for a state route number 99 deep bore tunnel for the purpose of determining the facility's potential to generate toll revenue. The department shall regularly report to the transportation commission regarding the progress of the study for the purpose of guiding the commission's toll setting on the facility. The study must include the following information:

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

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

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

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

The department must provide the results of the study to the governor and the legislature by January 2010.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5768.

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

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5768.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5768 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5768, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5768, as amended by the House, and the bill passed the Senate by the following vote:

Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

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

Voting nay: Senators Benton, Carrell, Hargrove, Holmquist, Kilmer, McCaslin, Morton, Roach and Stevens

Excused: Senator Eide

ENGROSSED SUBSTITUTE SENATE BILL NO. 5768, 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

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2211, by House Committee on Transportation (originally sponsored by Representatives Clibborn, Eddy, Maxwell and Liias)

Addressing the authorization, administration, collection, and enforcement of tolls on the state route number 520 corridor.

The measure was read the second time.

MOTION

Senator Jarrett moved that the following committee striking amendment by the Committee on Transportation be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to impose tolls on the state route number 520 floating bridge subject to section 2 of this act, to help finance construction of the replacement state route number 520 floating bridge.

It is further the intent of the legislature to expedite the replacement of the floating bridge in a manner that does not preclude local design options on either side of the state route number 520 corridor. For all projects in the state route number 520 corridor program, the legislature intends that the total cost will be no more than four billion six hundred fifty million dollars.

It is further the intent of the legislature that if the tolls on the state route number 520 corridor significantly alter the performance of nearby facilities, the legislature will reconsider the tolling policy for the corridor.

It is further the intent of the legislature that the department of transportation applies for federal stimulus funds for projects in the corridor.

It is further the intent of the legislature that the provisions of this act not be construed to preclude continued work on the east side of the state route number 520 corridor.

NEW SECTION. Sec. 2. A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

(1) The initial imposition of tolls on the state route number 520 corridor is authorized, the state route number 520 corridor is designated an eligible toll facility, and toll revenue generated in the corridor must only be expended as allowed under RCW

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47.56.820.

(2) The state route number 520 corridor consists of that portion of state route number 520 between the junctions of Interstate 5 and state route number 202. The toll imposed by this section shall be charged only for travel on the floating bridge portion of the state route number 520 corridor.

(3)(a) In setting the toll rates for the corridor pursuant to RCW 47.56.850, the tolling authority shall set a variable schedule of toll rates to maintain travel time, speed, and reliability on the corridor and generate the necessary revenue as required under (b) of this subsection.

(b) The tolling authority shall initially set the variable schedule of toll rates, which the tolling authority may adjust at least annually to reflect inflation as measured by the consumer price index or as necessary to meet the redemption of bonds and interest payments on the bonds, to generate revenue sufficient to provide for:

(i) The issuance of general obligation bonds first payable from toll revenue and then excise taxes on motor vehicle and special fuels pledged for the payment of those bonds in the amount necessary to fund state route number 520 corridor projects, subject to subsection (4) of this section; and

(ii) Costs associated with the project designated in subsection (4) of this section, or associated with state route number 520 corridor projects beginning July 1, 2010, that are eligible under RCW 47.56.820.

(4) Until July 1, 2010, the proceeds of the bonds designated in subsection (3)(b)(i) of this section, which together with other appropriated and identified state and federal funds is sufficient to pay for the replacement of the floating bridge segment of state route number 520, must be used only to fund the construction of the replacement state route number 520 floating bridge.

(5) The department may carry out the construction and improvements designated in subsection (4) of this section and administer the tolling program on the state route number 520 corridor.

NEW SECTION. Sec. 3. A new section is added to chapter 47.56 RCW to read as follows:

(1)(a) The state route number 520 work group is created. The work group shall consist of the following members:

(i) The chairs and ranking minority members of the transportation committees of the legislature;

(ii) The legislators from the forty-third legislative district;

(iii) The legislators from the forty-eighth legislative district;

(iv) The governor or the governor's designee; and

(v) The member of the transportation commission representing King county.

(b) The work group members shall elect two cochairs to consist of one legislative member representing the east side of the state route number 520 corridor and one legislative member representing the west side of the state route number 520 corridor. The work group shall conduct at least three meetings consisting of an initial meeting, a midcourse meeting, and a final meeting.

(2) The state route number 520 work group, in consultation with the department, must:

(a) After consultation with legislators representing the primary users of the state route number 520 corridor, review and recommend a financing strategy to fund the projects in the state route number 520 corridor, as developed by the department, that reflects the design options recommended under (b) of this subsection. The financing strategy must be based on a total cost of all the intended projects in the state route number 520 corridor that does not exceed four billion six hundred fifty million dollars; and

(b) After consultation with neighborhood and community groups in the area impacted by the westside landing and with legislators representing the primary users of the state route number 520 corridor, consider design options on the west side of the corridor, which extends from the west end of the floating bridge to Interstate 5. The work group must work with the department to review and evaluate the design options.

(3) All design options considered or recommended by the state route number 520 work group must adhere to RCW 47.01.408.

(4) The state route number 520 work group must recommend design options that meet the region's mobility needs while providing appropriate mitigation for the neighborhood and communities in the area directly impacted by the projects.

(5) The state route number 520 work group must present a final report with recommendations on financing and design options to the legislature and the governor by January 1, 2010. The recommendations will inform the supplemental draft environmental impact statement process for the state route number 520 corridor. The process must continue through 2009.

(6) The department shall provide staff support to the state route number 520 work group.

NEW SECTION. Sec. 4. A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

A special account to be known as the state route number 520 corridor account is created in the state treasury.

(1) Deposits to the account must include:

(a) All proceeds of bonds issued for construction of the replacement state route number 520 floating bridge, including any capitalized interest;

(b) All of the tolls and other revenues received from the operation of the state route number 520 corridor as a toll facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for the purpose of building the replacement state route number 520 floating bridge; and

(e) All damages, liquidated or otherwise, collected under any contract involving the construction of the replacement state route number 520 floating bridge.

(2) Subject to the covenants made by the state in the bond proceedings authorizing the issuance and sale of bonds for the replacement state route number 520 floating bridge, toll charges, other revenues, and interest received from the operation of the state route number 520 corridor as a toll facility may be used to:

(a) Pay any required costs allowed under RCW 47.56.820; and

(b) Repay amounts to the motor vehicle fund as required.

(3) When repaying the motor vehicle fund, the state treasurer shall transfer funds from the state route number 520 corridor account to the motor vehicle fund on or before each debt service date for bonds issued for the replacement state route number 520 floating bridge project in an amount sufficient to repay the motor vehicle fund for amounts transferred from that fund to the highway bond retirement fund to provide for any bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating toll charges, bond sale proceeds, and other revenues.

Sec. 5. RCW 43.84.092 and 2008 c 128 s 19 and 2008 c 106 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account,

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which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the health services account, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the

highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the safety and education account, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)((~~aa~~)) shall first be

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reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 6. A new section is added to chapter 47.56 RCW to read as follows:

Prior to the convening of each regular session of the legislature, the transportation commission must provide the transportation committees of the legislature with a detailed report regarding any increase or decrease in any toll rate approved by the commission that has not been described in a previous report provided pursuant to this section, along with a detailed justification for each such increase or decrease.

NEW SECTION. Sec. 7. This act takes effect August 1, 2009."

On page 1, line 2 of the title, after "corridor;" strike the remainder of the title and insert "reenacting and amending RCW 43.84.092; adding new sections to chapter 47.56 RCW; creating a new section; and providing an effective date."

The President declared the question before the Senate to be the motion by Senator Jarrett to not adopt the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 2211.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature that the state authorize early tolling on the state route number 520 corridor in order to secure the authority to spend federal grant moneys provided to Washington state as part of the urban partnership grant program.

It is further the intent of the legislature to impose tolls on the state route number 520 floating bridge subject to section 2 of this act, to help finance construction of the replacement state route number 520 floating bridge and necessary landings.

It is further the intent of the legislature to expedite the replacement of the floating bridge and necessary landings in a manner that does not preclude local design options on either side of the state route number 520 corridor. For all projects in the state route number 520 corridor program, the legislature intends that the total cost will be no more than four billion six hundred fifty million dollars.

It is further the intent of the legislature that if the tolls on the state route number 520 corridor significantly alter the performance of nearby facilities, the legislature will reconsider the tolling policy for the corridor.

It is further the intent of the legislature that the department of transportation applies for federal stimulus funds for projects in the corridor.

NEW SECTION. Sec. 2. A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

(1) The initial imposition of tolls on the state route number 520 corridor is authorized, the state route number 520 corridor is designated an eligible toll facility, and toll revenue generated in the corridor must only be expended as allowed under RCW 47.56.820.

(2) The state route number 520 corridor consists of that portion of state route number 520 between the junctions of Interstate 5 and state route number 202. The toll imposed by

this section shall be charged only for travel on the floating bridge portion of the state route number 520 corridor.

(3)(a) In setting the toll rates for the corridor pursuant to RCW 47.56.850, the tolling authority shall set a variable schedule of toll rates to maintain travel time, speed, and reliability on the corridor and generate the necessary revenue as required under (b) of this subsection.

(b) The tolling authority shall initially set the variable schedule of toll rates, which the tolling authority may adjust at least annually to reflect inflation as measured by the consumer price index or as necessary to meet the redemption of bonds and interest payments on the bonds, to generate revenue sufficient to provide for:

(i) The issuance of general obligation bonds first payable from toll revenue and then excise taxes on motor vehicle and special fuels pledged for the payment of those bonds in the amount necessary to fund the replacement state route number 520 floating bridge and necessary landings, subject to subsection (4) of this section; and

(ii) Costs associated with the project designated in subsection (4) of this section that are eligible under RCW 47.56.820.

(4) The proceeds of the bonds designated in subsection (3)(b)(i) of this section, which together with other appropriated and identified state and federal funds is sufficient to pay for the replacement of the floating bridge segment and necessary landings of state route number 520, must be used only to fund the construction of the replacement state route number 520 floating bridge and necessary landings.

(5) The department may carry out the construction and improvements designated in subsection (4) of this section and administer the tolling program on the state route number 520 corridor.

NEW SECTION. Sec. 3. A new section is added to chapter 47.56 RCW to read as follows:

(1)(a) The state route number 520 work group is created. The work group shall consist of the following members:

(i) The legislators from the forty-third legislative district;
 (ii) The legislators from the forty-eighth legislative district;
 (iii) The secretary of transportation;
 (iv) Two legislators from each of the forty-sixth and forty-fifth legislative districts as jointly determined by the speaker of the house of representatives and the president of the senate;

(v) The chairs of the transportation committees of the legislature, who may each appoint one additional legislator from the joint transportation committee representing a legislative district outside of the state route number 520 corridor; and

(vi) The member of the transportation commission representing King county.

(b) The work group members shall elect two cochairs to consist of one legislative member representing the east side of the state route number 520 corridor and one legislative member representing the west side of the state route number 520 corridor. The work group shall conduct at least three meetings consisting of an initial meeting, a midcourse meeting, and a final meeting.

(2) The state route number 520 work group must:

(a) Review and recommend a financing strategy, in conjunction with the department, to fund the projects in the state route number 520 corridor that reflects the design options recommended under (b) of this subsection. The financing strategy must be based on a total cost of all the intended projects in the state route number 520 corridor that does not exceed four billion six hundred fifty million dollars;

(b) Recommend design options that provide for a full state route number 520 corridor project, including projects in the corridor for which the department applies for federal stimulus funds provided in the American recovery and reinvestment act of 2009, that meets the needs of the region's transportation system while providing appropriate mitigation for the

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neighborhood and communities in the area directly impacted by the project; and

(c) Present a final report with recommendations on financing and design options to the legislature and the governor by January 1, 2010. The recommendations will inform the supplemental draft environmental impact statement process for the state route number 520 corridor. The process must continue through 2009.

(3) All design options considered or recommended by the state route number 520 work group must adhere to RCW 47.01.408.

(4) The state route number 520 work group shall form a westside subgroup to conduct a detailed review and make recommendations on design options on the west side of the corridor, which extends from the west end of the floating bridge to Interstate 5. The westside subgroup shall consult with neighborhood and community groups impacted by the potential design options. The work group may form an eastside subgroup to review current design options on the east side of the corridor, which extends from the east end of the floating bridge to state route number 202.

(5) The state route number 520 work group shall consult with the governor and legislators representing the primary users of the state route number 520 corridor.

(6) The department shall provide staff support to the state route number 520 work group.

NEW SECTION. Sec. 4. A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

A special account to be known as the state route number 520 corridor account is created in the state treasury.

(1) Deposits to the account must include:

(a) All proceeds of bonds issued for construction of the replacement state route number 520 floating bridge and necessary landings, including any capitalized interest;

(b) All of the tolls and other revenues received from the operation of the state route number 520 corridor as a toll facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for the purpose of building the replacement state route number 520 floating bridge and necessary landings; and

(e) All damages, liquidated or otherwise, collected under any contract involving the construction of the replacement state route number 520 floating bridge and necessary landings.

(2) Subject to the covenants made by the state in the bond proceedings authorizing the issuance and sale of bonds for the replacement state route number 520 floating bridge and necessary landings, toll charges, other revenues, and interest received from the operation of the state route number 520 corridor as a toll facility may be used to:

(a) Pay any required costs allowed under RCW 47.56.820; and

(b) Repay amounts to the motor vehicle fund as required.

(3) When repaying the motor vehicle fund, the state treasurer shall transfer funds from the state route number 520 corridor account to the motor vehicle fund on or before each debt service date for bonds issued for the replacement state route number 520 floating bridge project and necessary landings in an amount sufficient to repay the motor vehicle fund for amounts transferred from that fund to the highway bond retirement fund to provide for any bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating toll charges, bond sale proceeds, and other revenues.

Sec. 5. RCW 43.84.092 and 2008 c 128 s 19 and 2008 c 106 s 4 are each reenacted and amended to read as follows:

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(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the health services account, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the

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judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the safety and education account, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)((a)) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 6. A new section is added to chapter 47.56 RCW to read as follows:

Prior to the convening of each regular session of the legislature, the transportation commission must provide the

transportation committees of the legislature with a detailed report regarding any increase or decrease in any toll rate approved by the commission that has not been described in a previous report provided pursuant to this section, along with a detailed justification for each such increase or decrease.

NEW SECTION. Sec. 7. This act takes effect August 1, 2009."

MOTION

Senator Pflug moved that the following amendment by Senators Pflug and Swecker to the striking amendment be adopted.

On page 1, line 21 of the amendment, after "corridor." insert "However, the legislature shall not consider the assessment of tolls on Interstate 90 across Lake Washington if the number of lanes is reduced from the current amount."

Senators Pflug and Swecker spoke in favor of adoption of the amendment to the striking amendment.

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

Senator Schoesler demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Swecker on page 1, line 21 to the striking amendment to Engrossed Substitute House Bill No. 2211.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Pflug and Swecker to the striking amendment and the amendment was not adopted by the following vote: Yeas, 16; Nays, 31; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

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

Absent: Senator Brandland

Excused: Senator Eide

MOTION

Senator Pflug moved that the following amendment by Senators Pflug and Swecker to the striking amendment be adopted.

On page 1, after line 24 of the amendment, insert the following:

"It is further the intent of the legislature that the pontoons for the replacement state route number 520 floating bridge be designed in such a manner as to allow for the connection of an adjoining second pontoon bridge."

Senators Pflug and Swecker spoke in favor of adoption of the amendment to the striking amendment.

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

Senator Schoesler demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Swecker

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on page 1, after line 24 to the striking amendment to Engrossed Substitute House Bill No. 2211.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Pflug and Swecker to the striking amendment and the amendment was not adopted by the following vote: Yeas, 18; Nays, 30; Absent, 0; Excused, 1.

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

Voting nay: Senators Berkey, Brown, 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, Sheldon, Shin and Tom

Excused: Senator Eide

MOTION

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

On page 2, line 6, after "202", strike everything through "portion of the state route number 520 corridor" and insert the following:

" and that portion of Interstate 90 between the junctions of Interstate 5 and Interstate 405. The toll being imposed by this section shall be charged only for travel on the floating bridge portions of the state number 520 corridor."

WITHDRAWAL OF AMENDMENT

On motion of Senator Murray, the amendment by Senator Murray on page 2, line 6 to the striking amendment to Engrossed Substitute House Bill No. 2211 was withdrawn.

MOTION

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

On page 2, line 35, strike all of section 3, and insert the following:

"NEW SECTION. Sec. 3. A new section is added to chapter 47.56 RCW to read as follows:

(1)(a) The state route number 520 work group is created. The work group shall consist to the following members:

- (i) The governor
- (ii) The mayor of Seattle
- (iii) The executive of king county

(2) The state route 520 work group must:

(a) Review and recommend a financing strategy to fund projects in the state route number 520 corridor that reflects the design option recommended under subsection (b) of this subsection. The financing strategy must be based on a total cost of all the intended projects in the state route number 520 corridor that does not exceed four billion six hundred fifty million dollars;

(b) Conduct a detailed review of design options and make a recommendation on a design option for the westside of the corridor, which extends from the west end of the floating bridge to Interstate 5. The work group shall also consult with the neighborhoods and community groups impacted by the potential

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design options and develop an appropriate mitigation plan based on the design option selected for recommendation.

(c) Present a final report with recommendations on financing and a westside design option to the legislature by January 1, 2010. The recommendation will inform the supplemental draft environmental impact statement process for the state route number 520 corridor. The process must continue through 2009."

Renumber the sections consecutively and correct any internal references accordingly.

WITHDRAWAL OF AMENDMENT

On motion of Senator Murray, the amendment by Senator Murray on page 2, line 35 to the striking amendment to Engrossed Substitute House Bill No. 2211 was withdrawn.

MOTION

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

On page 3, beginning on line 3 of the amendment, after "(i)" strike all material through "(iii)" on line 5

On page 3, at the beginning of line 6 of the amendment, strike "(iv)" and insert "(ii)"

On page 3, line 6 of the amendment, after "forty-sixth" insert ", first, fifth, forty-eighth, forty-third,"

On page 3, line 8 of the amendment, after "senate;" insert "and"

On page 3, beginning on line 9 of the amendment, strike all material through "(vi)" on line 13 and insert "(iii)"

On page 4, beginning on line 5 of the amendment, strike all of subsections (4) and (5)

Renumber the remaining subsection consecutively.

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

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 3, line 3 to the striking amendment to Engrossed Substitute House Bill No. 2211.

The motion by Senator Pflug failed and the amendment to the striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Jarrett and others to Engrossed Substitute House Bill No. 2211.

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

MOTION

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

On page 1, line 2 of the title, after "corridor;" strike the remainder of the title and insert "reenacting and amending RCW 43.84.092; adding new sections to chapter 47.56 RCW; creating a new section; and providing an effective date."

MOTION

On motion of Senator Jarrett, the rules were suspended, Engrossed Substitute House Bill No. 2211 as amended by the

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

Senators Jarrett, Hargrove, Swecker, Haugen spoke in favor of passage of the bill.

Senators Murray and Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2211. as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2211 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Marr, McAuliffe, McDermott, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kline, Kohl-Welles, McCaslin, Morton, Murray, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senator Eide

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2211 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION FOR IMMEDIATE RECONSIDERATION

Senator Kastama moved that the rules be suspended and, having voted on the prevailing side, gave notice of immediate reconsideration of the vote by which the Senate refused to concur in House Amendment No. 556 to Substitute Senate Bill No. 5963 and asked House to recede therefrom.

The President declared the question before the Senate to be the motion by Senator Kastama that the rules be suspended and the Senate immediately reconsider the vote by which the Senate refused to concur in House Amendment No. 556 to Substitute Senate Bill No. 5963 and asked House to recede therefrom.

The motion by Senator Kastama carried and the Senate immediately reconsidered the vote by which the Senate refused to concur in House Amendment No. 556 to Substitute Senate Bill No. 5963 and asked House to recede therefrom by voice vote.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate refuse to concur in House Amendment No. 556 to Substitute Senate Bill No. 5963 and ask House to recede therefrom.

Senator Kastama spoke against the motion.

The motion by Senator Marr failed and the Senate concurred in House Amendment No. 556 to Substitute Senate Bill No. 5963 by voice vote.

MOTION

At 6:29 p.m., on motion of Senator McDermott, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 10:24 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

April 24, 2009

MR. PRESIDENT:

The House has passed the following bills:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1244,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6189 by Senators Kohl-Welles, Franklin, Keiser, Murray, McDermott, Kline, Ranker, Regala, Prentice, Rockefeller, Fairley, Tom, Hargrove and Fraser

AN ACT Relating to providing grants to increase dental and medical services by a voter-approved sales and use tax on candy; amending RCW 82.08.0293 and 82.12.0293; creating a new section; making an appropriation; providing a contingent effective date; and providing for submission of certain sections of this act to a vote of the people.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1244 by House Committee on Ways & Means (originally sponsored by Representatives Linville, Alexander and Ericks)

AN ACT Relating to fiscal matters; amending RCW 2.68.020, 28A.160.130, 28B.105.110, 35.104.060, 38.52.106, 41.48.060, 41.50.110, 43.03.310, 43.08.190, 43.09.260, 43.09.282, 43.09.475, 43.10.180, 43.17.390, 43.19.501, 43.21A.667, 43.79.201, 43.79.460, 43.79.480, 43.83B.360, 43.155.050, 43.215.125, 43.325.040, 43.330.250, 46.66.080, 50.16.010, 66.08.170, 67.70.190, 70.93.180, 71.24.310, 74.08A.340, 74.13.621, 77.12.820, 77.32.010, 79.64.040, 79A.25.080, 79.105.150, 80.36.430, 86.26.007, 2.68.020, 28B.50.837, 28B.67.030, 28B.76.565, 28B.76.610, 28B.105.110, 41.45.230, 43.30.305, and 71.24.310; amending 2009 c 4 ss 101, 110, 112, 118, 124, 128, 129, 135, 140, 143, 145, 148, 151, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 212, 213, 214, 215, 216, 217, 219, 221, 222, 223, 225, 301, 302, 303, 307, 308, 311, 402, 501, 502, 504, 505, 506, 603, 606, 609, 610, 613, 614, 615, 616, 801, and 802 (uncodified); amending 2008 c 329 ss 151, 201, 223, 504, 505, 506, 508, 509, 510, 512, 516, 701, 702, 703, 704, 705, 706, 707, and 714 (uncodified); amending 2007 c 522 ss 712, 804, 802, and 803 (uncodified); reenacting and amending RCW 43.135.045,

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46.09.170, 67.40.040, and 70.105D.070; adding a new section to chapter 43.70 RCW; adding new sections to 2007 c 522 (uncodified); creating new sections; making appropriations; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator McDermott, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

At 10:26 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Saturday, April 25, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate