

**NINETY SECOND DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Monday, April 11, 2011

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 Senators Kohl-Welles and McAuliffe.

The Sergeant at Arms Color Guard consisting of Pages Julie Fulton and Michael Kastama, presented the Colors. Pastor Stan Jacobson of Grace Lutheran Church of Des Moines 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 fifth order of business.

**INTRODUCTION AND FIRST READING**

**SB 5929** by Senators Keiser and Becker

AN ACT Relating to enrollment in state purchased medical programs by children ineligible for federally financed care; amending RCW 74.09.470; and declaring an emergency.

Referred to Committee on Ways & Means.

**SB 5930** by Senators Zarelli, Murray and Baumgartner

AN ACT Relating to budget sustainability; and adding a new section to chapter 43.88 RCW.

Referred to Committee on Ways & Means.

**SB 5931** by Senators Baumgartner and Zarelli

AN ACT Relating to reorganizing and streamlining central service functions, powers, and duties of state government; amending RCW 43.17.010, 43.17.020, 42.17A.705, 42.17.2401, 43.19.011, 43.19.025, 43.19.035, 43.19.125, 43.19.180, 43.19.185, 43.19.190, 43.19.1905, 43.19.19052, 43.19.1906, 43.19.1908, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.19191, 43.19.1920, 43.19.19201, 43.19.1921, 43.19.1932, 43.19.200, 43.19.450, 43.19.455, 43.19.500, 43.19.501, 43.19.530, 43.19.534, 43.19.538, 43.19.539, 43.19.560, 43.19.565, 43.19.585, 43.19.600, 43.19.610, 43.19.620, 43.19.635, 43.19.646, 43.19.663, 43.19.685, 43.19.702, 43.19.704, 43.19.708, 43.19.710, 19.27.070, 19.27A.140, 39.34.055, 39.35.030, 39.35C.010, 39.35D.020, 43.19A.010, 43.19A.022, 39.32.035, 43.01.225, 43.82.120, 43.82.125, 43.99H.070, 73.24.020, 1.08.039, 28A.300.040, 28B.10.029, 40.06.030, 43.08.061, 41.06.020, 41.06.076, 41.06.080, 41.06.093, 41.06.110, 41.06.120, 41.06.142, 41.06.152, 41.06.167, 41.06.169, 41.06.170, 41.06.220, 41.06.260, 41.06.270, 41.06.280, 41.06.285, 41.06.350, 41.06.395, 41.06.400, 41.06.410, 41.06.420, 41.06.476, 41.06.490, 41.06.510,

41.06.530, 34.05.030, 41.04.340, 41.04.385, 41.04.395, 41.04.670, 41.04.680, 41.04.685, 41.04.720, 41.04.770, 41.07.020, 41.07.030, 41.60.015, 41.80.005, 41.80.020, 42.16.010, 42.17.370, 43.01.040, 43.01.135, 43.03.028, 43.03.120, 43.03.130, 43.06.013, 43.06.410, 43.06.425, 43.33A.100, 43.130.060, 43.131.090, 48.37.060, 49.46.010, 49.74.020, 49.74.030, 49.90.010, 50.13.060, 28A.345.060, 28A.400.201, 34.12.100, 36.21.011, 41.04.020, 41.04.460, 41.60.050, 41.68.030, 41.68.040, 41.68.050, 47.28.251, 43.41.290, 43.41.300, 43.41.310, 43.41.320, 43.41.330, 43.41.340, 43.41.360, 43.41.370, 43.41.380, 43.41.110, 4.92.006, 4.92.040, 4.92.130, 4.92.150, 4.92.160, 4.92.210, 4.92.270, 4.92.280, 10.92.020, 48.62.021, 48.64.010, 39.29.011, 39.29.016, 39.29.018, 39.29.025, 39.29.055, 39.29.065, 39.29.075, 39.29.090, 39.29.100, 39.29.110, 39.29.120, 43.88.580, 43.105.080, 43.105.320, 43.105.370, 43.105.372, 43.105.374, 43.105.376, 43.105.380, 43.105.382, 43.105.390, 43.105.400, 41.07.030, 43.99I.040, 43.105.835, 43.105.290, 28A.650.015, 40.14.020, 42.17.460, 42.17.467, 42.17.469, 42.17.471, 42.17A.060, 43.88.092, 43.105.410, 43.105.020, 43.105.047, 43.105.052, 43.19.190, 43.105.057, 43.105.060, 19.34.231, 19.34.420, 46.20.157, 2.36.054, 29A.08.760, 43.63A.550, and 41.80.020; reenacting and amending RCW 41.06.133, 41.06.150, 41.04.665, 42.17A.110, 49.46.010, 39.29.068, 39.94.040, 39.29.040, and 41.06.070; adding new sections to chapter 43.19 RCW; adding new sections to chapter 41.06 RCW; adding new sections to chapter 43.41 RCW; adding new sections to chapter 43.330 RCW; adding new sections to chapter 43.105 RCW; adding a new section to chapter 41.80 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to Title 41 RCW; creating new sections; recodifying RCW 43.41.280, 43.41.290, 43.41.300, 43.41.310, 43.41.320, 43.41.330, 43.41.340, 43.41.350, 43.41.360, 43.105.080, 43.105.320, 43.105.410, 43.105.370, 43.105.372, 43.105.374, 43.105.376, 43.105.380, 43.105.382, 43.105.390, 43.105.400, 43.105.052, 43.105.172, 43.105.250, 43.105.260, 43.105.270, 43.105.280, 43.105.290, 43.105.310, and 43.105.835; decodifying RCW 43.19.123, 41.06.136, 43.31.086, 41.80.900, 41.80.901, 41.80.902, 41.80.903, and 41.80.904; repealing RCW 43.19.010, 43.19.1923, 43.19.1925, 43.19.590, 43.19.595, 43.19.615, 43.19.675, 43.19.680, 43.78.010, 43.78.020, 43.78.030, 43.78.040, 43.78.050, 43.78.070, 43.78.080, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.170, 15.24.085, 15.62.190, 16.67.170, 40.04.030, 40.07.050, 41.06.030, 41.06.111, 41.06.130, 41.06.139, 41.06.480, 41.07.900, 43.105.300, 43.105.360, 43.105.005, 43.105.013, 43.105.019, 43.105.032, 43.105.041, 43.105.095, 43.105.105, 43.105.160, 43.105.170, 43.105.180, 43.105.190, 43.105.200, 43.105.210, 43.105.330, 43.105.805, 43.105.815, and 43.105.820; repealing 2010 c 271 s 301; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

**MOTION**

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

## MOTION

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

## MOTION

Senator Keiser moved adoption of the following resolution:

SENATE RESOLUTION  
8650

By Senators Keiser, Kohl-Welles, Holmquist Newbry, King, Conway, Pridemore, Tom, Nelson, Shin, Kilmer, McAuliffe, Sheldon, Eide, Haugen, Harper, Regala, Fraser, White, Rockefeller, Ranker, Kline, Chase, Prentice, Murray, and Roach

WHEREAS, On April 28, 1971, the United States created the Occupational Safety and Health Administration, an agency created for the sole purpose of protecting workers from injury and death; aptly, April 28th has been observed in the United States as Workers' Memorial Day; and

WHEREAS, Since 1989, Workers' Memorial Day has been recognized throughout the State of Washington, throughout the nation, and around the globe as a day to mourn and show reverence to those who have perished as a result of work-related accidents; and

WHEREAS, Annually in Washington State, as many as 100 women and men's lives are claimed by illness, disease, and traumatic injuries obtained on the job; and

WHEREAS, In 2010, Washington State saw a dramatic rise in the number of occupational fatalities from the previous year with a total of 86 reported fatalities; nearly half of these tragic events involve machinery or motor vehicles; and

WHEREAS, The sudden, unexpected, and at times violent, nature of these events leaves behind a wake of immense pain and suffering for the families, friends, and colleagues of the fallen; and

WHEREAS, The emotional impact and financial toll of extreme economic hardship due to associated medical and funeral costs, a loss of household income, and any unpaid debts leave an indelible mark upon those left behind; and

WHEREAS, While Workers' Memorial Day is a paramount opportunity to mourn such loss, it is not merely a day to grieve loved ones that have been victim to occupational hazards, it is also a day to reflect on the often preventable nature of these injuries, illnesses, diseases, and fatalities; and

WHEREAS, Workers' Memorial Day is a chance for business, labor, and government to reflect on how continued cooperation and diligent prevention efforts can significantly reduce workplace catastrophes; and

WHEREAS, Observing Workers' Memorial Day gives our communities and Washington State an opportunity to join together to pay our respects to the fallen and to rededicate ourselves to the mission of safe and healthy work environments for all;

NOW, THEREFORE, BE IT RESOLVED, That the Senate honor Workers' Memorial Day as a day to remember those who have fallen on the job and those who have suffered as a result; and

BE IT FURTHER RESOLVED, That the Senate commemorate the 22nd anniversary of Workers' Memorial Day.

Senators Keiser, Ericksen, Conway, Kohl-Welles, Becker and Shin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8650.

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

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Dave Plummer, Safety and Health Committee, Washington State Labor Council; Sue Tellesbo, Department of Federation of State Employees; Judy Schurke, Director, Washington Labor and Industries; Vickie Kennedy, Chief Policy Advisor, Department of Labor and Industries; and Tamara Jones, Assistant Director for Legislative and Government Affairs, Department of Labor and Industries who were seated in the gallery.

## MOTION

At 10:22 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:58 p.m. by President Owen.

## MOTION

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

## MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5500.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5526.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL NO. 5011,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5020,

SENATE BILL NO. 5033,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5068,

SENATE BILL NO. 5076,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5105,

SENATE BILL NO. 5117,

SUBSTITUTE SENATE BILL NO. 5168,

SENATE BILL NO. 5172,

SENATE BILL NO. 5241,

SUBSTITUTE SENATE BILL NO. 5300,

SUBSTITUTE SENATE BILL NO. 5352,

SUBSTITUTE SENATE BILL NO. 5374,

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SUBSTITUTE SENATE BILL NO. 5386,  
 SENATE BILL NO. 5395,  
 SUBSTITUTE SENATE BILL NO. 5442,  
 SENATE BILL NO. 5463,  
 SENATE BILL NO. 5482,  
 SUBSTITUTE SENATE BILL NO. 5546,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5555,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5585,  
 SENATE BILL NO. 5589,  
 SENATE BILL NO. 5633,  
 SUBSTITUTE SENATE BILL NO. 5635,  
 SUBSTITUTE SENATE BILL NO. 5664,  
 SUBSTITUTE SENATE BILL NO. 5788,  
 SUBSTITUTE SENATE BILL NO. 5797,  
 SUBSTITUTE SENATE BILL NO. 5800,  
 SENATE BILL NO. 5849.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 5018,  
 SENATE BILL NO. 5045,  
 SUBSTITUTE SENATE BILL NO. 5070,  
 SUBSTITUTE SENATE BILL NO. 5359,  
 SUBSTITUTE SENATE BILL NO. 5364,  
 SUBSTITUTE SENATE BILL NO. 5423,  
 SUBSTITUTE SENATE BILL NO. 5428,  
 SUBSTITUTE SENATE JOINT MEMORIAL NO. 8004.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1024,  
 HOUSE BILL NO. 1074,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1153,  
 SUBSTITUTE HOUSE BILL NO. 1169,  
 ENGROSSED HOUSE BILL NO. 1171,  
 HOUSE BILL NO. 1190,  
 HOUSE BILL NO. 1191,  
 ENGROSSED HOUSE BILL NO. 1223,  
 HOUSE BILL NO. 1239,  
 SUBSTITUTE HOUSE BILL NO. 1266,  
 HOUSE BILL NO. 1340,  
 SUBSTITUTE HOUSE BILL NO. 1402,

HOUSE BILL NO. 1432,  
 SUBSTITUTE HOUSE BILL NO. 1438,  
 HOUSE BILL 1477,  
 SUBSTITUTE HOUSE BILL NO. 1495,  
 SUBSTITUTE HOUSE BILL NO. 1565,  
 SUBSTITUTE HOUSE BILL NO. 1595,  
 SUBSTITUTE HOUSE BILL NO. 1596,  
 SUBSTITUTE HOUSE BILL NO. 1614,  
 ENGROSSED HOUSE BILL NO. 1703,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731,  
 SUBSTITUTE HOUSE BILL NO. 1966.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

MOTION

On motion of Senator White, Senator McAuliffe was excused.

MOTION

On motion of Senator Ericksen, Senator Delvin was excused.

SECOND READING  
 CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9036, Betti Fujikado, as a member of the Board of Trustees, Western Washington University, be confirmed.

Senator Prentice spoke in favor of the motion.

APPOINTMENT OF BETTI FUJIKADO

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9036, Betti Fujikado as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9036, Betti Fujikado as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kohl-Welles

Excused: Senators Delvin and McAuliffe

Gubernatorial Appointment No. 9036, Betti Fujikado, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

MOTION

On motion of Senator White, Senator Kohl-Welles was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kilmer moved that Gubernatorial Appointment No. 9095, Robert Ryan, as a member of the Board of Trustees, Tacoma Community College District No. 22, be confirmed.

Senator Kilmer spoke in favor of the motion.

MOTION

On motion of Senator White, Senator Kastama was excused.

APPOINTMENT OF ROBERT RYAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9095, Robert Ryan as a member of the Board of Trustees, Tacoma Community College District No. 22.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9095, Robert Ryan as a member of the Board of Trustees, Tacoma Community College District No. 22 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kastama, Kohl-Welles and McAuliffe

Gubernatorial Appointment No. 9095, Robert Ryan, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Tacoma Community College District No. 22.

SIGNED BY THE PRESIDENT

The President signed:

- SUBSTITUTE HOUSE BILL NO. 1024,
- HOUSE BILL NO. 1074,
- SECOND SUBSTITUTE HOUSE BILL NO. 1153,
- SUBSTITUTE HOUSE BILL NO. 1169,
- ENGROSSED HOUSE BILL NO. 1171,
- HOUSE BILL NO. 1190,
- HOUSE BILL NO. 1191,
- ENGROSSED HOUSE BILL NO. 1223,
- HOUSE BILL NO. 1239,
- SUBSTITUTE HOUSE BILL NO. 1266,
- HOUSE BILL NO. 1340,
- SUBSTITUTE HOUSE BILL NO. 1402,
- HOUSE BILL NO. 1432,
- SUBSTITUTE HOUSE BILL NO. 1438,
- HOUSE BILL NO. 1477,
- SUBSTITUTE HOUSE BILL NO. 1495,
- SUBSTITUTE HOUSE BILL NO. 1565,
- SUBSTITUTE HOUSE BILL NO. 1595,
- SUBSTITUTE HOUSE BILL NO. 1596,

- SUBSTITUTE HOUSE BILL NO. 1614,
- ENGROSSED HOUSE BILL NO. 1703,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731,
- SUBSTITUTE HOUSE BILL NO. 1966.

SECOND READING

ENGROSSED HOUSE BILL NO. 1775, by Representatives Goodman and Kagi

Encouraging juvenile restorative justice programs.

The measure was read the second time.

MOTION

Senator Harper moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.40.020 and 2010 c 181 s 10 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate

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detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes district county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(17) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

(18) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(19) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(21) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(22) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(23) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(24) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(25) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(26) "Restorative justice" means practices, policies, and programs, informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members.

(27) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

~~((27))~~ (28) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((28))~~ (29) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((29))~~ (30) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((30))~~ (31) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((31))~~ (32) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((32))~~ (33) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

~~((33))~~ (34) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((34))~~ (35) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((35))~~ (36) "Youth court" means a diversion unit under the supervision of the juvenile court.

**Sec. 2.** RCW 13.40.080 and 2004 c 120 s 3 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversion unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community restitution not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by any victim;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth;

responsibility; work ethics; good citizenship; literacy; and life skills. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversion unit exercising the option to permit diversion agreements to mandate attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions;

(d) A fine, not to exceed one hundred dollars;

(e) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas; and

(f) Upon request of any victim or witness, requirements to refrain from any contact with victims or witnesses of offenses committed by the juvenile.

(3) Notwithstanding the provisions of subsection (2) of this section, youth courts are not limited to the conditions imposed by subsection (2) of this section in imposing sanctions on juveniles pursuant to RCW 13.40.630.

(4) In assessing periods of community restitution to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian. To the extent possible, the court officer shall advise the victims of the juvenile offender of the diversion process, offer victim impact letter forms and restitution claim forms, and involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(5)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the diveree.

(b) If additional time is necessary for the juvenile to complete restitution to a victim, the time period limitations of this subsection may be extended by an additional six months.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of an order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(6) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(7) Divertees and potential divertees shall be afforded due process in all contacts with a diversion unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

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(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No divertee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the divertee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the divertee was diverted:

(i) In juvenile court if the divertee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(8) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(9) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

(10) The diversion unit may refer a juvenile to community-based counseling or treatment programs.

(11) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversion unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(12) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

(13) A diversion unit may refuse to enter into a diversion agreement with a juvenile. When a diversion unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the

criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversion unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(14) A diversion unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection includes the authority to refer the juvenile to community-based counseling or treatment programs or a restorative justice program. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversion unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(15) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(16) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community restitution. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community restitution in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(17) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed House Bill No. 1775.

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

MOTION

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

On page 1, line 1 of the title, after "programs;" strike the remainder of the title and insert "and amending RCW 13.40.020 and 13.40.080."

MOTION

On motion of Senator Harper, the rules were suspended, Engrossed House Bill No. 1775 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1775 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1775 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

ENGROSSED HOUSE BILL NO. 1775 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. 1516, by House Committee on Transportation (originally sponsored by Representatives Morris, Armstrong, Rolfes, Clibborn, Fitzgibbon, Liias, Maxwell, Appleton, Sells, Eddy and Smith)

Concerning the performance of state ferry system management.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the Washington state ferry system has been plagued with declining ridership, increased operating costs, and poor on-time performance during peak periods. The legislature intends to give the Washington state ferry system management the tools to change that and, furthermore, intends to hold management accountable to do so.

**Sec. 2.** RCW 47.64.120 and 2010 c 283 s 10 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times to negotiate in good faith with respect to wages, hours, (~~working conditions~~) and insurance, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees' retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not

required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) The employer shall make decisions regarding working conditions to best suit the operational needs of the state and may not bargain its own decision or the effects of a decision for any working condition other than shift bidding, scheduling leave time, and grievance procedures, provided that the grievance procedures do not expand the scope of grievances beyond the interpretation and application of terms permissible under this chapter. The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, must include, but not be limited to, the following:

(a) Assigning employees to work stations, vessels, or terminals;

(b) Directing promotions;

(c) Directing who will be laid off in the event of a layoff action, bumping rights, or layoff options;

(d) Directing staffing levels;

(e) Providing for training; and

(f) Directing the use of part-time shifts.

(4) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

(5) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages(,) or hours(~~and terms and conditions of employment~~) and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**NEW SECTION. Sec. 3.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Effective July 1, 2012, all captains of Washington state ferry vessels are managers as defined in RCW 41.06.022 and therefore are subject to the rules adopted by the director of the department of personnel pursuant to RCW 41.06.500. Salary increases for captains must be directly related to the performance of their responsibilities.

(2) The captain, also known as the master of a vessel or the commanding officer, is the ultimate authority on and has responsibility for the entire vessel. The captain's responsibilities include, but are not limited to:

(a) Ensuring the safe navigation of the vessel and its crew and passengers;

(b) Following all applicable federal, state, and agency policies and regulations;

(c) Supervising crew in performance, operations, training, security, and environmental protection; and

(d) Overseeing all aspects of vessel operations including, but not limited to:

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- (i) Vessel arrivals and departures;
- (ii) Schedule adherence;
- (iii) Customer service;
- (iv) Cost containment; and
- (v) Fuel efficiency.

(3) Effective January 1, 2013, all chief engineers and terminal supervisors of Washington state ferry vessels are managers as defined in RCW 41.06.022 and therefore are subject to the rules adopted by the director of the department of personnel pursuant to RCW 41.06.500. Salary increases for chief engineers and terminal supervisors must be directly related to the performance of their responsibilities.

(4) The chief engineer, also known as a staff engineer, is the engineering department head and reports directly to the captain. The chief engineer's duties include, but are not limited to:

- (a) Overseeing all aspects of engineering propulsion, electrical, and machinery components;
- (b) Ensuring safe and efficient engineering plant operations;
- (c) Advising the captain of factors affecting the vessel's operation from an engineering perspective;
- (d) Supervising the conduct of engineering watchstanders and directing work and maintenance routines;
- (e) Following federal, state, and agency policies and regulations; and
- (f) Overseeing all fueling to ensure efficient and environmentally safe operations.

(5) The terminal supervisor is the ultimate authority and has responsibility for the entire operations at that ferry terminal. The terminal supervisor's duties include, but are not limited to:

- (a) Overseeing all aspects of dock-side terminal operations;
- (b) Coordinating with the captain in arrival and departure procedures;
- (c) Supervising the conduct of ticket sellers and traffic and loading attendants and directing selling, loading, and traffic work and routines; and
- (d) Following federal, state, and agency policies and regulations.

(6) With each biennial budget submittal, the department shall include recommendations for distributing any appropriations the legislature may provide for incentive pay for vessel captains, chief engineers, or terminal supervisors.

(7) Any employee who is a captain, chief engineer, or terminal supervisor may not belong to a collective bargaining unit.

(8) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

**Sec. 4.** RCW 41.06.022 and 2002 c 354 s 207 are each amended to read as follows:

For purposes of this chapter, "manager" means any employee who:

- (1) Formulates statewide policy or directs the work of an agency or agency subdivision;
- (2) Is responsible to administer one or more statewide policies or programs of an agency or agency subdivision;
- (3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;
- (4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; (☞☞)
- (5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment; or

(6) Is a captain or chief engineer of a Washington state ferry vessel, or a terminal supervisor of a Washington state ferry terminal.

No employee who is a member of the Washington management service may be included in a collective bargaining unit established under RCW 41.80.001 and 41.80.010 through 41.80.130 and chapter 47.64 RCW.

**NEW SECTION. Sec. 5.** A new section is added to chapter 47.64 RCW to read as follows:

Washington state ferry system management must meet with its union employees twice a year and encourage an open and direct exchange of ideas and concerns between line employees and management.

**NEW SECTION. Sec. 6.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Using state fiscal year 2010 as a basis, Washington state ferry system management shall develop targets for the performance measures listed under this subsection. These targets must be developed in collaboration with the office of financial management and presented to the transportation committees of the legislature by September 30, 2011, along with an implementation plan for achieving these targets by June 30, 2013:

- (a) Number of riders per service hour;
- (b) Terminal and vessel operating costs, not including fuel, per service hour;
- (c) Fuel consumption per service hour; and
- (d) Peak-direction, peak-time, on-time performance by route for all runs except those delayed or canceled due to tidal conditions.

On-time is defined as within ten minutes of the scheduled time. Peak-time for the Mukilteo/Clinton, Edmonds/Kingston, Seattle/Bainbridge, Seattle/Bremerton, Fauntleroy/Vashon/Southworth, and Point Defiance/Tahlequah ferry routes means weekdays from 5:00 a.m. to 9:00 a.m. and 3:00 p.m. to 7:00 p.m. Peak-time for the Coupeville (Keystone)/Port Townsend and Anacortes/San Juan Island ferry routes means Fridays from 3:00 p.m. to closing, Saturdays all day, Sundays all day, holidays all day, and Mondays from opening to 12:00 p.m.

(2) The department shall, on a quarterly basis, report Washington state ferry system management's performance as it relates to the performance measures in subsection (1) of this section (a) to the transportation committees of the legislature, (b) on its vessels, (c) at all ferry terminals, and (d) on the department's web site.

(3) The joint legislative audit and review committee shall work with the department in determining baseline data for the performance measures in subsection (1) of this section and shall determine whether Washington state ferry system management has met the performance measures in subsection (1) of this section and report its findings to the transportation committees of the legislature by September 30, 2013.

(4) If the joint legislative audit and review committee determines that Washington state ferry system management has not met the targets developed in subsection (1) of this section, the governor, with the consensus of the chairs and ranking minorities of the transportation committees of the legislature, shall appoint a governor's management representative who, within sixty days, shall develop and submit a corrective action plan to achieve the targets in this section within the following twelve months. The plan must be submitted to the governor and the transportation committees of the legislature.

**NEW SECTION. Sec. 7.** A new section is added to chapter 47.64 RCW to read as follows:

The report required in RCW 47.01.071(5) and 47.04.280 must include the performance measures in section 6(1) of this act.

**Sec. 8.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Collective bargaining representative" means the persons designated by the governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(2) "Commission" means the ~~((marine employees))~~ public employment relations commission created in RCW ~~((47.64.280))~~ 41.58.010.

(3) "Department of transportation" means the department as defined in RCW 47.01.021.

(4) "Employer" means the state of Washington.

(5) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

(6) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

(7) "Lockout" means the refusal of the employer to furnish work to ferry employees in an effort to get ferry employee organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage shall not be considered a lockout.

(8) "Office of financial management" means the office as created in RCW 43.41.050.

(9) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

**Sec. 9.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the ~~((marine employees))~~ commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

**Sec. 10.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read as follows:

An agreement with a ferry employee organization that is the exclusive representative of ferry employees in an appropriate unit may provide procedures for the consideration of ferry employee grievances and of disputes over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of ferry employee grievances and of disputes over the interpretation and application of existing agreements. An arbitrator's decision on a grievance shall not change or amend the terms, conditions, or applications of the collective bargaining agreement. The procedures shall provide for the invoking of arbitration only with the approval of the employee organization. The costs of arbitrators shall be shared equally by the parties.

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Ferry system employees shall follow ~~((either))~~ the grievance procedures provided in a collective bargaining agreement, or if ~~((no))~~ such procedures are ~~((so))~~ not provided, shall submit the grievances to the ~~((marine employees'))~~ commission ~~((as provided in RCW 47.64.280)).~~

**Sec. 11.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read as follows:

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of chapter 47.64 RCW and this chapter shall govern. However, if a conflict exists between the provisions of chapter 47.64 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

**Sec. 12.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

~~((z))~~ ~~((All employees of the marine employees' commission;~~

~~((z))~~ Staff employed by the department of commerce to administer energy policy functions;

~~((aa))~~ ~~((z))~~ The manager of the energy facility site evaluation council;

~~((bb))~~ ~~((aa))~~ A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((cc))~~ ~~((bb))~~ Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research

activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) (~~(and (y))~~) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 13.** (1) The marine employees' commission is hereby abolished and its powers, duties, and functions are hereby transferred to the public employment relations commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the marine employees' commission shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the marine employees' commission shall be made available to the public employment relations commission. All funds, credits, or other assets held by the marine employees' commission shall be assigned to the public employment relations commission.

(b) Any appropriations made to the marine employees' commission shall, on the effective date of this section, be transferred and credited to the public employment relations commission.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the marine employees' commission shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations shall remain in full force and shall be performed by the public employment relations commission.

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION. Sec. 14.** The joint transportation committee shall conduct a study of the management structure at the Washington state ferries. The study results must make recommendations on changes to the organizational structure that will result in more efficient operations and a more balanced management organization structure scaled to the workforce. The study results must be presented to the transportation committees of the legislature by September 30, 2011.

**NEW SECTION. Sec. 15.** The following acts or parts of acts are each repealed:

(1) RCW 47.64.080 (Employee seniority rights) and 1984 c 7 s 341 & 1961 c 13 s 47.64.080; and

(2) RCW 47.64.280 (Marine employees' commission) and 2010 c 283 s 14, 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19.

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**NEW SECTION. Sec. 16.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Prentice to the committee striking amendment be adopted:

On page 2, line 37, after "July 1," strike "2012" and insert "2013"

On page 3, line 22, after "January 1," strike "2013" and insert "2014"

On page 6, line 11 of the amendment, after "by" strike "September 30" and insert "December 31"

On page 16, line 21 of the amendment, after "by" strike "September 30" and insert "December 31"

Senators Haugen and King spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Prentice on page 2, line 37 to the committee striking amendment to Substitute House Bill No. 1516.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Substitute House Bill No. 1516.

The motion by Senator Haugen carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "providing tools for improving and measuring the performance of state ferry system management; amending RCW 47.64.120, 41.06.022, 47.64.011, 47.64.150, and 41.58.060; reenacting and amending RCW 47.64.090 and 41.06.070; adding new sections to chapter 47.64 RCW; creating new sections; repealing RCW 47.64.080 and 47.64.280; and declaring an emergency."

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1516 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, King and Prentice spoke in favor of passage of the bill.

Senators Nelson and Keiser spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1516 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1516 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Eide, Ericksen, Fain, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Kohl-Welles, Litzow, Morton, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Chase, Conway, Harper, Keiser, Kilmer, Kline, Murray, Nelson, Ranker and Roach

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1516 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5742, by Senators Haugen, Ranker and Shin

Concerning the administration and distribution of Washington state ferry system revenue. Revised for 1st Substitute: Providing funding and cost saving measures for the Washington state ferry system.

MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 5742 was substituted for Senate Bill No. 5742 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Haugen moved that the following striking amendment by Senators Haugen, King and Ranker be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.60.530 and 1979 c 27 s 4 are each amended to read as follows:

~~((There is hereby created in the motor vehicle fund))~~ (1) The Puget Sound ferry operations account ((to the credit of which shall be deposited all moneys directed by law to be deposited therein. All moneys deposited in this account shall be expended pursuant to appropriations only for reimbursement of the motor vehicle fund for any state moneys, other than insurance proceeds, expended therefrom for alternate transportation services instituted as a result of the destruction of the Hood Canal bridge, and)) is created in the motor vehicle fund.

(2) The following funds must be deposited into the account:

(a) All moneys directed by law;

(b) All revenues generated from ferry fares; and

(c) All revenues generated from commercial advertising, concessions, parking, and leases as allowed under RCW 47.60.140.

(3) Moneys in the account may be spent only after appropriation.

(4) Expenditures from the account may be used only for the maintenance and operation of the Washington state ferries ((including the Hood Canal bridge, supplementing as required the revenues available from the Washington state ferry system)).

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The capital vessel replacement account is created in the motor vehicle fund. All revenues generated from the vessel replacement surcharge under RCW 47.60.315(7) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the construction or purchase of ferry vessels and to pay the principal and interest on bonds authorized for the construction or purchase of ferry vessels. However, expenditures from the account must first be used to support the construction or purchase, including any applicable financing costs, of a ferry vessel with a carrying capacity of at least one hundred forty-four cars.

(2) The state treasurer shall not transfer any moneys from the capital vessel replacement account.

**Sec. 3.** RCW 47.60.315 and 2007 c 512 s 6 are each amended to read as follows:

(1) The commission shall adopt fares and pricing policies by rule, under chapter 34.05 RCW, according to the following schedule:

(a) Each year the department shall provide the commission a report of its review of fares and pricing policies, with recommendations for the revision of fares and pricing policies for the ensuing year;

(b) By September 1st of each year, beginning in 2008, the commission shall adopt by rule fares and pricing policies for the ensuing year.

(2) The commission may adopt by rule fares that are effective for more or less than one year for the purposes of transitioning to the fare schedule in subsection (1) of this section.

(3) The commission may increase ferry fares included in the schedule of charges adopted under this section by a percentage that exceeds the fiscal growth factor.

(4) The chief executive officer of the ferry system may authorize the use of promotional, discounted, and special event fares to the general public and commercial enterprises for the purpose of maximizing capacity use and the revenues collected by the ferry system. The department shall report to the commission a summary of the promotional, discounted, and special event fares offered during each fiscal year and the financial results from these activities.

(5) Fare revenues and other revenues deposited in the Puget Sound ferry operations account created in RCW 47.60.530 may not be used to support the Puget Sound capital construction account created in RCW 47.60.505, unless the support for capital is separately identified in the fare.

(6) The commission may not raise fares until the fare rules contain pricing policies developed under RCW 47.60.290, or September 1, 2009, whichever is later.

(7) The commission shall impose a vessel replacement surcharge of twenty-five cents on every ferry fare sold, including multiride and monthly pass fares. In the event that fares are collected in one direction only, the surcharge is fifty cents on every ferry fare sold. This surcharge must be clearly indicated to ferry passengers and drivers and, if possible, on the fare media itself.

**Sec. 4.** RCW 82.08.0255 and 2007 c 223 s 9 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or

county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is taxable under chapter 82.36 or 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

**Sec. 5.** RCW 82.12.0256 and 2007 c 223 s 10 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is taxable under chapter 82.36 or 82.38 RCW: PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (2)(d), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013.

**Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s. c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145 s 11 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, 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.

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(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:

(a) 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 capital vessel replacement 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 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 energy recovery act 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 public health services account, the health system capacity 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 hospital safety net assessment fund, 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 marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team 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 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 civil penalties 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 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.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(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.

**Sec. 7.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Collective bargaining representative" means the persons designated by the governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(2) "Commission" means the ~~((marine employees'))~~ public employment relations commission created in RCW ~~((47.64.280))~~ 41.58.010.

(3) "Department of transportation" means the department as defined in RCW 47.01.021.

(4) "Employer" means the state of Washington.

(5) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a

member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

(6) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

(7) "Lockout" means the refusal of the employer to furnish work to ferry employees in an effort to get ferry employee organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage shall not be considered a lockout.

(8) "Office of financial management" means the office as created in RCW 43.41.050.

(9) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

**Sec. 8.** RCW 47.64.210 and 2007 c 160 s 2 are each amended to read as follows:

In the ~~((absence of an impasse))~~ event there is no agreement between the parties ~~((or the failure of either party to utilize its procedures))~~ by August 1st in the even-numbered year preceding the biennium, either party may request the commission to appoint an impartial and disinterested person to act as mediator. It is the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but the mediator shall not compel the parties to agree.

**Sec. 9.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the ~~((marine employees))~~ commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

**Sec. 10.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read as follows:

An agreement with a ferry employee organization that is the exclusive representative of ferry employees in an appropriate unit may provide procedures for the consideration of ferry employee grievances and of disputes over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of ferry employee grievances and of disputes over the interpretation and application of existing agreements. An arbitrator's decision on a grievance shall not change or amend the terms, conditions, or applications of the collective bargaining agreement. The procedures shall provide for the invoking of arbitration only ~~((with the approval))~~ by mutual agreement of the employee organization and management. The costs of arbitrators shall be shared equally by the parties.

Ferry system employees shall follow ~~((either))~~ the grievance procedures provided in a collective bargaining agreement ~~((or if no such procedures are so provided, shall submit the grievances to the marine employees' commission as provided in RCW 47.64.280)).~~

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**Sec. 11.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read as follows:

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of chapter 47.64 RCW and this chapter shall govern. However, if a conflict exists between the provisions of chapter 47.64 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

**Sec. 12.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

~~(y) ((All employees of the marine employees' commission;~~

~~(z))~~ Staff employed by the department of commerce to administer energy policy functions;

~~((aa))~~ (z) The manager of the energy facility site evaluation council;

~~((bb))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((cc))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) (~~(and (y))~~) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the

right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 13.** (1) The marine employees' commission is hereby abolished and its powers, duties, and functions are hereby transferred to the public employment relations commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the marine employees' commission shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the marine employees' commission shall be made available to the public employment relations commission. All funds, credits, or other assets held by the marine employees' commission shall be assigned to the public employment relations commission.

(b) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the marine employees' commission shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations shall remain in full force and shall be performed by the public employment relations commission.

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION. Sec. 14.** RCW 47.64.280 (Marine employees' commission) and 2010 c 283 s 14, 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19 are each repealed.

**Sec. 15.** RCW 39.04.320 and 2009 c 197 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) through (d) of this subsection, from January 1, 2005, and thereafter, for all public works estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(b)(i) This section does not apply to contracts advertised for bid before July 1, 2007, for any public works by the department of transportation.

(ii) For contracts advertised for bid on or after July 1, 2007, and before July 1, 2008, for all public works by the department of transportation estimated to cost five million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after July 1, 2008, and before July 1, 2009, for all public works by the department of transportation estimated to cost three million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

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(iv) For contracts advertised for bid on or after July 1, 2009, for all public works by the department of transportation estimated to cost two million dollars or more and for all public works by the Washington state ferries estimated to cost five million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(c)(i) This section does not apply to contracts advertised for bid before January 1, 2008, for any public works by a school district, or to any project funded in whole or in part by bond issues approved before July 1, 2007.

(ii) For contracts advertised for bid on or after January 1, 2008, for all public works by a school district estimated to cost three million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after January 1, 2009, for all public works by a school district estimated to cost two million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

(iv) For contracts advertised for bid on or after January 1, 2010, for all public works by a school district estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(d)(i) For contracts advertised for bid on or after January 1, 2010, for all public works by a four-year institution of higher education estimated to cost three million dollars or more, all specifications must require that no less than ten percent of the labor hours be performed by apprentices.

(ii) For contracts advertised for bid on or after January 1, 2011, for all public works by a four-year institution of higher education estimated to cost two million dollars or more, all specifications must require that no less than twelve percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after January 1, 2012, for all public works by a four-year institution of higher education estimated to cost one million dollars or more, all specifications must require that no less than fifteen percent of the labor hours be performed by apprentices.

(2) Awarding entities may adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas;

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;

(c) Participating contractors have demonstrated a good faith effort to comply with the requirements of RCW 39.04.300 and 39.04.310 and this section; or

(d) Other criteria the awarding entity deems appropriate, which are subject to review by the office of the governor.

(3) The secretary of the department of transportation shall adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas; or

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation.

(4) This section applies to public works contracts awarded by the state, to public works contracts awarded by school districts, and to public works contracts awarded by state four-year institutions of higher education. However, this section does not apply to contracts awarded by state agencies headed by a separately elected public official.

(5)(a) The department of general administration must provide information and technical assistance to affected agencies and collect

the following data from affected agencies for each project covered by this section:

(i) The name of each apprentice and apprentice registration number;

(ii) The name of each project;

(iii) The dollar value of each project;

(iv) The date of the contractor's notice to proceed;

(v) The number of apprentices and labor hours worked by them, categorized by trade or craft;

(vi) The number of journey level workers and labor hours worked by them, categorized by trade or craft; and

(vii) The number, type, and rationale for the exceptions granted under subsection (2) of this section.

(b) The department of labor and industries shall assist the department of general administration in providing information and technical assistance.

(6) The secretary of transportation shall establish an apprenticeship utilization advisory committee, which shall include statewide geographic representation and consist of equal numbers of representatives of contractors and labor. The committee must include at least one member representing contractor businesses with less than thirty-five employees. The advisory committee shall meet regularly with the secretary of transportation to discuss implementation of this section by the department of transportation, including development of the process to be used to adjust the requirements of this section for a specific project. The committee shall provide a report to the legislature by January 1, 2008, on the effects of the apprentice labor requirement on transportation projects and on the availability of apprentice labor and programs statewide.

(7) At the request of the senate labor, commerce, research and development committee, the house of representatives commerce and labor committee, or their successor committees, and the governor, the department of general administration and the department of labor and industries shall compile and summarize the agency data and provide a joint report to both committees. The report shall include recommendations on modifications or improvements to the apprentice utilization program and information on skill shortages in each trade or craft."

Senators Haugen, King and Ranker 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 Haugen, King and Ranker to Substitute Senate Bill No. 5742.

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

#### MOTION

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

On page 1, line 2 of the title, after "system;" strike the remainder of the title and insert "amending RCW 47.60.530, 47.60.315, 82.08.0255, 82.12.0256, 47.64.011, 47.64.210, 47.64.150, 41.58.060, and 39.04.320; reenacting and amending RCW 43.84.092, 47.64.090, and 41.06.070; adding a new section to chapter 47.60 RCW; creating a new section; and repealing RCW 47.64.280."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 5742 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Conway spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5742.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5742 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Brown, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Kilmer, King, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Chase, Conway, Holmquist Newbry, Keiser, Kline, Roach and Stevens  
Absent: Senator Kohl-Welles

Excused: Senators Delvin and McAuliffe

ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Haugen: "Well, thank you Mr. President. There is one thing that I forgot to mention and one thing that I want to say is thank you to the Chairman of the Ways and Means. It's so nice to have a man, a person that is chairman of Ways and Means who actually understands the transportation budgets and understands how long we've struggled so much with the whole issues of ferries. One thing that is no little issue and that beginning the year 2013 we will no longer collect sales, no longer will we have to pay sales tax on the gas tax. But it's a huge plus, it's just a fact that Senator Murray actually did chair the Transportation Committee like myself and understands how frustrating this is and I will tell you to a person who lives in a ferry district the fact that we've had to pay a sales tax on our gasoline has been something that has been difficult for us to understand or to even explain. There is a reason behind that because we have a motor vehicle excise tax which was a very generous tax. It was its way to the general fund to get some money from that revenue so that day is over. This is a new day and this is going to be a new time for ferries. Thank you very much."

#### MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 5742 was immediately transmitted to the House of Representatives.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1737, by House Committee on Health Care & Wellness (originally sponsored by Representatives Short, Seaquist and Schmick)

Concerning the department of social and health services' audit program for pharmacy payments.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.09.200 and 1979 ex.s. c 152 s 1 are each amended to read as follows:

(1) The legislature finds and declares it to be in the public interest and for the protection of the health and welfare of the residents of the state of Washington that a proper regulatory and inspection program be instituted in connection with the providing of medical, dental, and other health services to recipients of public assistance and medically indigent persons. In order to effectively accomplish such purpose and to assure that the recipient of such services receives such services as are paid for by the state of Washington, the acceptance by the recipient of such services, and by practitioners of reimbursement for performing such services, shall authorize the secretary of the department of social and health services or his designee, to inspect and audit all records in connection with the providing of such services.

(2) It is the intent of the legislature that the regulatory and inspection program authorized in this section shall include a systematic method to gather data for program improvement.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

(1) Audits under this chapter of the records of pharmacies licensed under chapter 18.64 RCW are subject to the following:

(a) An initial audit may not commence earlier than thirty days prior to the date on which written notice of the audit is given to the pharmacy. The notice must be provided to the physical location at which the audit will be conducted and to the principal office or place of business of the pharmacy, if different, and must include the name, office address, and telephone number of any contractor conducting the audit pursuant to a contract with the department. Audit findings resulting from audit work that is commenced before the thirty-day period may not be used in any audit findings;

(b) An audited pharmacy may use the written records of a hospital, physician, or other authorized pharmacy to validate the audited pharmacy's record; and

(c) The pharmacy must have at least ninety days from the date on which the draft audit findings were delivered to the pharmacy to respond with additional documentation or other relevant information. Extensions of these time periods shall be granted for good cause.

(2) This section does not apply to an audit that is based on an investigation for fraudulent or abusive practices under RCW 74.09.210.

(3) For the purposes of this section, "allowable cost" means a medical cost that is:

(a) Covered by the state plan and waivers;

(b) Supported by the medical records indicating that the services were provided and consistent with the medical diagnosis, when special circumstances as required in the billing instructions require such documentation;

(c) Properly coded; and

(d) Paid at the rate allowed by the state plan.

**NEW SECTION. Sec. 3.** The secretary of the department of social and health services may adopt rules as necessary to implement this act.

**NEW SECTION. Sec. 4.** Section 2 of this act applies retroactively to audits commenced by the department of social and health services under chapter 74.09 RCW on or after April 1, 2011.

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NEW SECTION. Sec. 5. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Bill No. 1737.

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

#### MOTION

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

On page 1, line 2 of the title, after "payments;" strike the remainder of the title and insert "amending RCW 74.09.200; adding a new section to chapter 74.09 RCW; and creating new sections."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1737 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1737 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1737 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1737 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1969, by Representatives Hasegawa and Springer

Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies.

The measure was read the second time.

#### MOTION

Senator Ericksen moved that the following amendment by Senator Ericksen be adopted:

On page 2, line 19, after "districts" insert "in a county with a population of one million five hundred thousand or more"

On page 2, line 24, after "district" insert "in a county with a population of one million five hundred thousand or more"

On page 4, line 12, after "(shall)" insert "that have a population of one million five hundred thousand or more"

On page 6, line 12, after "districts" insert "in a county with a population of one million five hundred thousand or more"

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Ericksen, the amendment by Senator Ericksen on page 2, line 19 to Engrossed House Bill No. 1969 was withdrawn.

#### MOTION

Senator Ericksen moved that the following amendment by Senator Ericksen be adopted:

On page 2, line 19, after "districts" insert "in a county with a population of seven hundred seventy-five thousand or more"

On page 2, line 24, after "district" insert "in a county with a population of seven hundred seventy-five thousand or more"

On page 4, line 12, after "(shall)" insert "that have a population of seven hundred seventy-five thousand or more"

On page 6, line 12, after "districts" insert "in a county with a population of seven hundred seventy-five thousand or more"

Senators Ericksen, Fain and Pridemore spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ericksen on page 2, line 19 to Engrossed House Bill No. 1969.

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

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed House Bill No. 1969 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Fain spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1969 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1969 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Holmquist Newbry and Stevens

Excused: Senators Delvin and McAuliffe

ENGROSSED HOUSE BILL NO. 1969 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. 1089, by House Committee on Higher Education (originally sponsored by Representative McCoy)

Regarding instructional materials provided in a specialized format.

The measure was read the second time.

## MOTION

Senator Tom moved that the following committee striking amendment by the Committee on Higher Education & Workforce Development be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the knowledge, skill, and ability to succeed both academically and later in a chosen profession are accumulated through myriad sources, including instructional materials. Therefore, it is the intent of the legislature to ensure that students provided with instructional materials pursuant to RCW 28B.10.916 be permitted to retain those materials if they so desire.

**Sec. 2.** RCW 28B.10.916 and 2004 c 46 s 1 are each amended to read as follows:

(1) An individual, firm, partnership or corporation that publishes or manufactures instructional materials for students attending any public or private institution of higher education in the state of Washington shall provide to the public or private institution of higher education, for use by students attending the institution, any instructional material in an electronic format mutually agreed upon by the publisher or manufacturer and the public or private institution of higher education. Computer files or electronic versions of printed instructional materials shall be provided; video materials must be captioned or accompanied by transcriptions of spoken text; and audio materials must be accompanied by transcriptions. These supplemental materials shall be provided to the public or private institution of higher education at no additional cost and in a timely manner, upon receipt of a written request as provided in subsection (2) of this section.

(2) A written request for supplemental materials must:

(a) Certify that a student with a print access disability attending or registered to attend a public or participating private institution of higher education has purchased the instructional material or the public or private institution of higher education has purchased the instructional material for use by a student with a print access disability;

(b) Certify that the student has a print access disability that substantially prevents him or her from using standard instructional materials;

(c) Certify that the instructional material is for use by the student in connection with a course in which he or she is registered or enrolled at the public or private institution of higher education; and

(d) Be signed by the coordinator of services for students with disabilities at the public or private institution of higher education or by the college or campus official responsible for monitoring compliance with the Americans with disabilities act of 1990 (42 U.S.C. 12101 et seq.) at the public or private institution of higher education.

(3) An individual, firm, partnership or corporation specified in subsection (1) of this section may also require that, in addition to the requirements in subsection (2) of this section, the request include a statement signed by the student agreeing to both of the following:

(a) He or she will use the instructional material provided in specialized format solely for his or her own educational purposes; and

(b) He or she will not copy or duplicate the instructional material provided in specialized format for use by others.

(4) A public or private institution of higher education that provides a specialized format version of instructional material pursuant to this section may not require that the student return the specialized format version of the instructional material, except that if the institution has determined that it is not required to allow the student to retain the material under the Americans with disabilities act or other applicable laws, and the material was translated or transcribed into a specialized format at the expense of the institution and the cost to reproduce a copy of the translation or transcription is greater than one hundred dollars, the institution may require that the student return the specialized format version.

(5) If a public or private institution of higher education provides a student with the specialized format version of an instructional material, the media must be copy-protected or the public or private institution of higher education shall take other reasonable precautions to ensure that students do not copy or distribute specialized format versions of instructional materials in violation of the copyright revision(s) act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

~~((5))~~ (6) For purposes of this section:

(a) "Instructional material or materials" means textbooks and other materials that are required or essential to a student's success in a postsecondary course of study in which a student with a disability is enrolled. The determination of which materials are "required or essential to student success" shall be made by the instructor of the course in consultation with the official making the request in accordance with guidelines issued pursuant to subsection ~~((9))~~ (10) of this section. The term specifically includes both textual and nontextual information.

(b) "Print access disability" means a condition in which a person's independent reading of, reading comprehension of, or visual access to materials is limited or reduced due to a sensory, neurological, cognitive, physical, psychiatric, or other disability recognized by state or federal law. The term is applicable, but not limited to, persons who are blind, have low vision, or have reading disorders or physical disabilities.

(c) "Structural integrity" means all instructional material, including but not limited to the text of the material, sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, graphs, charts, illustrations, pictures, equations, formulas, and bibliographies. Structural order of material shall be maintained. Structural elements, such as headings, lists, and tables must be identified using current markup and tools. If good faith efforts fail to produce an agreement between the publisher or manufacturer and the public or private institution of higher

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education, as to an electronic format that will preserve the structural integrity of instructional materials, the publisher or manufacturer shall provide the instructional material in a verified and valid HTML format and shall preserve as much of the structural integrity of the instructional materials as possible.

(d) "Specialized format" means Braille, audio, or digital text that is exclusively for use by blind or other persons with print access disabilities.

~~((6))~~ (7) Nothing in this section is to be construed to prohibit a public or private institution of higher education from assisting a student with a print access disability through the use of an electronic version of instructional material gained through this section or by transcribing or translating or arranging for the transcription or translation of the instructional material into specialized formats that provide persons with print access disabilities the ability to have increased independent access to instructional materials. If such specialized format is made, the public or private institution of higher education may share the specialized format version of the instructional material with other students with print access disabilities for whom the public or private institution of higher education is authorized to request electronic versions of instructional material. The addition of captioning to video material by a Washington public or private institution of higher education does not constitute an infringement of copyright.

~~((7))~~ (8) A specialized format version of instructional materials developed at one public or private institution of higher education in Washington state may be shared for use by a student at another public or private institution of higher education in Washington state for whom the latter public or private institution of higher education is authorized to request electronic versions of instructional material.

~~((8))~~ (9) Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the copyright revision act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

~~((9))~~ (10) The governing boards of public and participating private institutions of higher education in Washington state shall each adopt guidelines consistent with this section for its implementation and administration. At a minimum, the guidelines shall address all of the following:

(a) The designation of materials deemed "required or essential to student success";

(b) The determination of the availability of technology for the conversion of materials pursuant to subsection ~~((4))~~ (5) of this section and the conversion of mathematics and science materials pursuant to subsection ~~((5))~~ (6)(c) of this section;

(c) The procedures and standards relating to distribution of files and materials pursuant to this section;

(d) The guidelines shall include procedures for granting exceptions when it is determined that an individual, firm, partnership or corporation that publishes or manufactures instructional materials is not technically able to comply with the requirements of this section; and

(e) Other matters as are deemed necessary or appropriate to carry out the purposes of this section.

~~((4))~~ (11) A violation of this chapter constitutes an unfair practice under chapter 49.60 RCW, the law against discrimination. All rights and remedies under chapter 49.60 RCW, including the right to file a complaint with the human rights commission and to bring a civil action, apply."

Senator Tom spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

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Committee on Higher Education & Workforce Development to Substitute House Bill No. 1089.

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

#### MOTION

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

On page 1, line 2 of the title, after "version;" strike the remainder of the title and insert "amending RCW 28B.10.916; and creating a new section."

#### MOTION

On motion of Senator Tom, the rules were suspended, Substitute House Bill No. 1089 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Fraser, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1089 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1089 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, McAuliffe and Prentice

SUBSTITUTE HOUSE BILL NO. 1089 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. 1254, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Lytton, Blake, Takko, Van De Wege, Ladenburg and Rolfes)

Regarding the institute of forest resources.

The measure was read the second time.

#### MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that there are many challenges facing the forest sector, such as climate change, loss of forest cover in rural and urban areas, forest health and fire risks, the development of environmental service markets, the enhancement of habitat and biodiversity, timber and water supply, restoration of forest ecosystems, and the economic health of forest-dependent communities that rely on the retention of working forests.

(2) The legislature further finds that these forest issues, which occur in both rural and urban environments, and the approaches taken to address the issues, transcend the expertise and mission of the University of Washington school of forest resources and the associated centers and cooperatives. While each of these centers and cooperatives contribute expertise and resources, the structure and continuity for the integrated, interdisciplinary approach needed to address these complex issues is lacking.

(3) It is the intent of the legislature for the institute of forest resources to provide the structure and continuity needed by drawing contributions from the associated centers and cooperatives into a more consolidated, collaborative, interdisciplinary, and integrated process that is responsive to the critical issues confronting the forest sector.

**Sec. 2.** RCW 76.44.070 and 2010 c 188 s 2 are each amended to read as follows:

The legislature finds that there are many issues facing the forest sector, such as climate change, forest health and fire, carbon accounting, habitat and diversity, timber and water supplies, economic competitiveness, and the economic health of forest dependent communities. Enhancing the capability to effectively address these forest issues is critical to the state of Washington. To meet this need, the University of Washington school of forest resources will continue to work with the various interests concerned with the state's forest resources, including the legislature, state and federal governments, environmental organizations, local communities, the timber industry, and tribes, to improve these entities' ability to competitively recruit, educate, and train a high quality workforce. In order to meet these goals, it is important to our state, and in particular the University of Washington, to continue to have strong undergraduate and graduate programs in forestry and natural resources to provide well-trained professionals to meet workforce needs.

**Sec. 3.** RCW 76.44.020 and 1988 c 81 s 21 are each amended to read as follows:

The institute of forest resources shall be administered and directed by the ~~((dean of the college))~~ director of the school of forest resources ~~((of))~~ at the University of Washington ~~((who shall also be the director of the institute))~~.

**Sec. 4.** RCW 76.44.030 and 1979 c 50 s 5 are each amended to read as follows:

(1) The institute of forest resources shall pursue coordinated research and education related to the forest ((resource)) sector and its multiple ((use)) components, including ((its)):

(a) Forest conservation, restoration, sustainable management, and utilization; ((its))

(b) The evaluation of the economic, ecological, and societal value of forest land ((use and the maintenance of its)) in both the rural and urban environment;

(c) The manufacture and marketing of forest products, including timber products, nontimber products, environmental services, and the provision of recreation and aesthetic values.

(2) The institute of forest resources must seek to provide a framework for identifying, prioritizing, funding, and conducting interdisciplinary research critical to the forest sector and the development of integrated, synthesized information and decision

support tools that improve the understanding of complex forestry issues for stakeholders, policymakers, and other interested parties.

(3) In pursuit of these objectives, the institute of forest resources is authorized to cooperate, when cooperation advances the objectives listed in this section, with other entities, including but not limited to:

(a) Universities((;));

(b) State and federal agencies((, industrial institutions,));

(c) Conservation and environmental organizations;

(d) Community and urban forestry organizations; and

(e) Domestic or foreign((where such cooperation advances these objectives)) industrial and business institutions.

**Sec. 5.** RCW 76.44.050 and 1979 c 50 s 7 are each amended to read as follows:

(1) The institute ((is authorized to)) of forest resources may solicit ((and/or accept funds through)) gifts, grants, ((contracts, or institutional consulting arrangements for the prosecution of any research or education activity which it may undertake in pursuit of its objectives)) conveyances, bequests, and devices, including both real or personal property, in trust or otherwise, to be directed to the institute for carrying out the objectives of the institute as provided in this chapter.

(2) The institute of forest resources may solicit contracts for work, financial and in-kind contributions, and support from private industries, interest groups, federal and state sources, and other sources deemed appropriate by the director of the institute.

(3) The institute of forest resources may utilize separately appropriated funds of the University of Washington for the institute's operations and activities.

**NEW SECTION. Sec. 6.** A new section is added to chapter 76.44 RCW to read as follows:

(1) The director of the school of forest resources at the University of Washington may, at the discretion of the director, appoint and maintain an eleven-member policy advisory committee to advise the director on policies for the institute of forest resources that are consistent with the institute's objectives as provided in this chapter.

(2) If activated, the membership of the policy advisory committee must represent, to the extent possible, the various interests concerned with the institute of forest resources, including state and federal agencies, tribal governments, conservation and environmental organizations, urban forestry interests, rural communities, industry, and business.

(3) Members of the advisory committee may not receive any salary or other compensation for service on the advisory committee. However, each member may be compensated, at the discretion of the director of the institute, for each day in actual attendance at or traveling to and from meetings of the advisory committee in accordance with RCW 43.03.220 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 7.** A new section is added to chapter 76.44 RCW to read as follows:

The director of the school of forest resources at the University of Washington shall coordinate the various cooperatives and centers within the school of forest resources to promote a holistic, efficient, and integrated approach that broadens the research and outreach programs and addresses issues facing the forest sector."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources & Marine Waters to Substitute House Bill No. 1254.

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

MOTION

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

On page 1, line 1 of the title, after "resources;" strike the remainder of the title and insert "amending RCW 76.44.070, 76.44.020, 76.44.030, and 76.44.050; adding new sections to chapter 76.44 RCW; and creating a new section."

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1254 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1254 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1254 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, McAuliffe and Prentice

SUBSTITUTE HOUSE BILL NO. 1254 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. 1257, by House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Kirby and Kelley)

Adopting the investments of insurers model act.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following committee amendment by the Committee on Financial Institutions, Housing & Insurance be not adopted:

On page 3, line 29, after "(1)" strike "Minimum" and insert "The minimum"

On page 3, line 29, after "benchmark" insert "shall be used only as authorized in this chapter in the regulation of insurer investments"

On page 4, line 4, after "section" insert "only for the purpose of regulating insurer investments"

The President declared the question before the Senate to be the motion by Senator Hobbs to not adopt the committee

amendment by the Committee on Financial Institutions, Housing & Insurance to Substitute House Bill No. 1257.

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

MOTION

Senator Fraser moved that the following amendment by Senators Fraser, Hobbs and Benton be adopted:

On page 17, line 1, after "before" strike "January" and insert "July"

On page 17, line 2, after "after" strike "January" and insert "July"

On page 17, after line 37, insert the following:

"NEW SECTION. Sec. 19. (1) By December 1, 2011, the insurance commissioner must submit a report to the governor and appropriate committees of the legislature, providing the following information:

(a) The estimated total dollar amount of insurance company assets affected by this act;

(b) An analysis outlining the pertinent investment changes made in this act and the reasons for such changes;

(c) An analysis detailing any projected risks to policyholders and taxpayers associated with the implementation of this act and any provisions included in this act to protect such stakeholders against such risks;

(d) A copy of proposed rules to implement this act;

(e) A general outline of any managerial and personnel modifications required in the office of the insurance commissioner to implement this act;

(f) An explanation describing why an insurance company's investment policy must be exempt from public disclosure and subpoena; and

(g) An analysis identifying other states that have: (i) Adopted this model legislation in both substantial or limited part, and the reasons for such decision; and (ii) explicitly chosen not to adopt this model legislation and the reasons for such decision.

(2) In preparing the report the commissioner shall consult with the department of financial institutions and the state investment board."

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

On page 22, line 33, after "effect" strike "January" and insert "July"

Senators Fraser, Hobbs and Benton spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser, Hobbs and Benton on page 17, line 1 to Substitute House Bill No. 1257.

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

MOTION

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

On page 1, line 3 of the title, after "48.13 RCW;" insert "creating a new section;"

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1257 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs 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. 1257 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1257 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1257 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. 1923, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Reykdal, Hunt, Pedersen, Roberts and Hunter)

Requiring the denial of a concealed pistol license application when the applicant is ineligible to possess a firearm under federal law.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1923 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1923.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1923 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Hill, Holmquist Newbry, Honeyford, Parlette, Roach and Stevens

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1923, having received the constitutional majority, was declared passed. There being no

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

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1295, by House Committee on Local Government (originally sponsored by Representatives Van De Wege, Hurst, Tharinger, Fitzgibbon and Liias)

Concerning the installation of residential fire sprinkler systems.

The measure was read the second time.

#### MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that fire sprinkler systems in private residences may prevent catastrophic losses of life and property, but that financial, technical, and other issues often discourage property owners from installing these protective systems.

It is the intent of the legislature to eradicate barriers that prevent the voluntary installation of sprinkler systems in private residences by promoting education regarding the effectiveness of residential fire sprinklers, and by providing financial and regulatory incentives to homeowners, builders, and water purveyors for voluntarily installing the systems. It is the further intent of the legislature to fully preserve the rulings of *Fisk v. City of Kirkland*, 164 Wn.2d 891 (2008), *Stiefel v. City of Kent*, 132 Wn. App.523 (2006), and similar cases.

**Sec. 2.** RCW 18.160.050 and 2008 c 155 s 2 are each amended to read as follows:

(1)(a) All certificate of competency holders that desire to continue in the fire protection sprinkler business shall annually, prior to January 1<sup>st</sup>, secure from the state director of fire protection a renewal certificate of competency upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the certificate holder shall furnish the information required by the director.

(b) Failure of any certificate of competency holder to secure his or her renewal certificate of competency within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the certificate of competency.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a certificate of competency that has been suspended for failure to pay the renewal fee.

(d) A certificate of competency holder may voluntarily surrender his or her certificate of competency to the state director of fire protection and be relieved of the annual renewal fee. After surrendering the certificate of competency, he or she shall not be known as a certificate of competency holder and shall desist from the practice thereof. Within two years from the time of surrender of the certificate of competency, he or she may again qualify for a certificate of competency, without examination, by the payment of the required fee. If two or more years have elapsed, he or she shall return to the status of a new applicant.

(2)(a) All licensed fire protection sprinkler system contractors desiring to continue to be licensed shall annually, prior to January

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1st, secure from the state director of fire protection a renewal license upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the license holder shall furnish the information required by the director.

(b) Failure of any license holder to secure his or her renewal license within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the license.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a license that has been suspended for failure to pay the renewal fee.

(3) The initial certificate of competency or license fee shall be prorated based upon the portion of the year such certificate of competency or license is in effect, prior to renewal on January 1st.

(4) The fire protection contractor license fund is created in the custody of the state treasurer. All receipts from license and certificate fees and charges or from the money generated by the rules and regulations promulgated under this chapter shall be deposited into the fund. Expenditures from the fund may be used only for purposes authorized under this chapter and standards for fire protection and its enforcement, with respect to all hospitals as required by RCW 70.41.080(~~and~~); for providing assistance in identifying fire sprinkler system components that have been subject to either a recall or voluntary replacement program by a manufacturer of fire sprinkler products, a nationally recognized testing laboratory, or the federal consumer product safety commission; and for use in developing and publishing educational materials related to the effectiveness of residential fire sprinklers. Assistance shall include, but is not limited to, aiding in the identification of recalled components, information sharing strategies aimed at ensuring the consumer is made aware of recalls and voluntary replacement programs, and providing training and assistance to local fire authorities, the fire sprinkler industry, and the public. Only the state director of fire protection or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**Sec. 3.** RCW 82.02.100 and 1992 c 219 s 2 are each amended to read as follows:

(1) A person required to pay a fee pursuant to RCW 43.21C.060 for system improvements shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 for those same system improvements.

(2) A person installing a residential fire sprinkler system in a single-family home shall not be required to pay the fire operations portion of the impact fee. The exempted fire operations impact fee shall not include the proportionate share related to the delivery of emergency medical services.

**NEW SECTION. Sec. 4.** A new section is added to chapter 70.119A RCW to read as follows:

(1) A person or purveyor that owns, operates, or maintains a public water system shall not be liable for damages resulting from shutting off water to a residential home with an installed fire sprinkler system if the shut off is due to: (a) Routine maintenance; (b) nonpayment by the customer; or (c) a water system emergency.

(2) Any governmental or municipal corporation, including but not limited to special districts, shall be deemed to be exercising a governmental function when it acts or undertakes to supply water, within or without its corporate limits, to a residential home with an installed fire sprinkler system."

Senator Pridemore spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Swecker moved that the following amendment by Senator Roach to the committee striking amendment be adopted:

On page 3, line 33 of the amendment, after "maintenance" insert "or construction"

Senators Swecker and Pridemore spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 3, line 33 to the committee striking amendment to Engrossed Substitute House Bill No. 1295.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections as amended to Engrossed Substitute House Bill No. 1295.

The motion by Senator Pridemore carried and the committee striking amendment as amended 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 "systems;" strike the remainder of the title and insert "amending RCW 18.160.050 and 82.02.100; adding a new section to chapter 70.119A RCW; and creating a new section."

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1295 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Rockefeller, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1295 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1295 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Ericksen, Holmquist Newbry and Honeyford

Excused: Senators Delvin and McAuliffe

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1295 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Goodman and Stanford)

Modifying the business and occupation tax deduction for organizations providing child welfare services. Revised for 1st Substitute: Concerning a business and occupation tax deduction for amounts received with respect to child welfare services.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) A health or social welfare organization may deduct from the measure of tax amounts received as compensation for providing child welfare services under a government-funded program.

(2) A person may deduct from the measure of tax amounts received from the state of Washington for distribution to a health or social welfare organization that is eligible to deduct the distribution under subsection (1) of this section.

(3) The following definitions apply to this section:

(a) "Child welfare services" has the same meaning as provided in RCW 74.13.020; and

(b) "Health or social welfare organization" has the meaning provided in RCW 82.04.431.

**NEW SECTION. Sec. 2.** This act applies to amounts received by a taxpayer on or after August 1, 2011."

Senator Kilmer spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1902.

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

#### MOTION

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

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "adding a new section to chapter 82.04 RCW; and creating a new section."

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Bill No. 1902 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1902 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1902 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1052, by Representatives Pedersen, Rodne, Eddy and Moeller

Addressing the authority of shareholders and boards of directors to take certain actions under the corporation act.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1052 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1052.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1052 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hobbs

Excused: Senators Delvin and McAuliffe

HOUSE BILL NO. 1052, 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 White, Senator Kline was excused.

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## SECOND READING

HOUSE BILL NO. 1413, by Representatives Blake, Chandler, Tharinger and Hinkle

Extending the expiration date of the invasive species council and the invasive species council account from December 31, 2011, to June 30, 2017.

The measure was read the second time.

## MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1413 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1413.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1413 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kline and McAuliffe

HOUSE BILL NO. 1413, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1106, by Representatives Takko, Orcutt and Blake

Authorizing disposal of property within the Seashore Conservation Area to resolve boundary disputes.

The measure was read the second time.

## MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1106 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 1106.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1106 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hargrove

Excused: Senators Delvin, Kline and McAuliffe

HOUSE BILL NO. 1106, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1698, by Representatives Lytton, Morris, Van De Wege, Blake and Liias

Improving recreational fishing opportunities in Puget Sound and Lake Washington.

The measure was read the second time.

## MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1698 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1698.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1698 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kline and McAuliffe

HOUSE BILL NO. 1698, 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.

## SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL NO. 5500,

SENATE BILL NO. 5526.

## NOTICE OF RECONSIDERATION

Having voted on the prevailing side and on motion of Senator Schoesler the rules were suspended and the Senate moved to

immediately reconsidered the vote by which Substitute House Bill No. 1923 passed the Senate earlier in the day.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1923 on reconsideration.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1923 on reconsideration and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Ericksen, Holmquist Newbry, Honeyford, Stevens and Zarelli

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1923 on reconsideration, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1586, by Representatives Seaquist, Haler, Jacks, Dammeier, Moscoso, Carlyle, Zeiger, Moeller, Probst, Kenney, Stanford, Kelley, Dahlquist and Jinkins

Regarding the provision of doctorate programs at the research university branch campuses in Washington.

The measure was read the second time.

#### MOTION

On motion of Senator Tom, the rules were suspended, House Bill No. 1586 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Becker and Brown spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1586.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1586 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

HOUSE BILL NO. 1586, 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. 1061, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Green and Kelley)

Concerning on-site wastewater treatment systems designer licensing.

The measure was read the second time.

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1061 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller 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. 1061.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1061 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1061, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:16 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, April 12, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate



1024-S	President Signed.....4	1432	President Signed.....4
	Speaker Signed.....3		Speaker Signed.....3
1052	Second Reading.....28	1438-S	President Signed.....4
	Third Reading Final Passage.....28		Speaker Signed.....3
1061-S	Second Reading.....30	1477	President Signed.....4
	Third Reading Final Passage.....30		Speaker Signed.....3
1074	President Signed.....4	1495-S	President Signed.....4
	Speaker Signed.....3		Speaker Signed.....3
1087-S	Messages.....3	1516-S	Other Action.....13
1089-S	Other Action.....23		Second Reading.....8, 13
	Second Reading.....22		Third Reading Final Passage.....13
	Third Reading Final Passage.....23	1565-S	President Signed.....4
1106	Second Reading.....29		Speaker Signed.....3
	Third Reading Final Passage.....29	1586	Second Reading.....30
1153-S2	President Signed.....4		Third Reading Final Passage.....30
	Speaker Signed.....3	1595-S	President Signed.....4
1169-S	President Signed.....4		Speaker Signed.....3
	Speaker Signed.....3	1596-S	President Signed.....4
1171	President Signed.....4		Speaker Signed.....3
	Speaker Signed.....3	1614-S	President Signed.....4
1190	President Signed.....4		Speaker Signed.....3
	Speaker Signed.....3	1698	Second Reading.....29
1191	President Signed.....4		Third Reading Final Passage.....29
	Speaker Signed.....3	1703	President Signed.....4
1223	President Signed.....4		Speaker Signed.....3
	Speaker Signed.....3	1731-S	President Signed.....4
1239	President Signed.....4		Speaker Signed.....3
	Speaker Signed.....3	1737-S	Other Action.....21
1254-S	Other Action.....24		Second Reading.....20
	Second Reading.....23, 24		Third Reading Final Passage.....21
	Third Reading Final Passage.....25	1775	Other Action.....7
1257-S	Other Action.....25		Second Reading.....4
	Second Reading.....25		Third Reading Final Passage.....8
	Third Reading Final Passage.....26	1902-S	Other Action.....28
1266-S	President Signed.....4		Second Reading.....28
	Speaker Signed.....3		Third Reading Final Passage.....28
1295-S	Other Action.....27	1923-S	Other Action.....30
	Second Reading.....26, 27		Second Reading.....26
	Third Reading Final Passage.....27		Third Reading Final Passage.....26, 30
1340	President Signed.....4	1966-S	President Signed.....4
	Speaker Signed.....3		Speaker Signed.....3
1402-S	President Signed.....4	1969	Other Action.....21
	Speaker Signed.....3		Second Reading.....21
1413	Second Reading.....29		Third Reading Final Passage.....22
	Third Reading Final Passage.....29	5011	Speaker Signed.....2
		5018-S	

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Speaker Signed.....	3	5526	
5020-S		Messages.....	2
Speaker Signed.....	2	President Signed.....	30
5033		5546-S	
Speaker Signed.....	2	Speaker Signed.....	3
5045		5555-S	
Speaker Signed.....	3	Speaker Signed.....	3
5068-S		5585-S	
Speaker Signed.....	2	Speaker Signed.....	3
5070-S		5589	
Speaker Signed.....	3	Speaker Signed.....	3
5076		5633	
Speaker Signed.....	2	Speaker Signed.....	3
5105-S		5635-S	
Speaker Signed.....	2	Speaker Signed.....	3
5117		5664-S	
Speaker Signed.....	2	Speaker Signed.....	3
5168-S		5742	
Speaker Signed.....	2	Second Reading.....	13
5172		5742-S	
Speaker Signed.....	2	Other Action.....	19
5241		Second Reading.....	13
Speaker Signed.....	2	Third Reading Final Passage.....	20
5300-S		5788-S	
Speaker Signed.....	3	Speaker Signed.....	3
5352-S		5797-S	
Speaker Signed.....	3	Speaker Signed.....	3
5359-S		5800-S	
Speaker Signed.....	3	Speaker Signed.....	3
5364-S		5849	
Speaker Signed.....	3	Speaker Signed.....	3
5374-S		5929	
Speaker Signed.....	3	Introduction & 1 <sup>st</sup> Reading.....	1
5386-S		5930	
Speaker Signed.....	3	Introduction & 1 <sup>st</sup> Reading.....	1
5395		5931	
Speaker Signed.....	3	Introduction & 1 <sup>st</sup> Reading.....	1
5423-S		8004-S	
Speaker Signed.....	3	Speaker Signed.....	3
5428-S		8650	
Speaker Signed.....	3	Adopted.....	2
5442-S		Introduced.....	2
Speaker Signed.....	3	9036 Betti Fujikado	
5463		Confirmed.....	3
Speaker Signed.....	3	9095 Robert Ryan	
5482		Confirmed.....	4
Speaker Signed.....	3	PRESIDENT OF THE SENATE	
5500		Intro. Special Guests, Washington Workers.....	2
Messages.....	2	WASHINGTON STATE SENATE	
President Signed.....	29	Personal Privilege, Senator Haugen.....	20