

SIXTIETH LEGISLATURE - REGULAR SESSION

ONE HUNDRED FOURTH DAY

House Chamber, Olympia, Saturday, March 21, 2007

April 20, 2007

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

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Seth Coates and Ron Finley. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Representative Dennis Flannigan.

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

MESSAGES FROM THE SENATE

April 20, 2007

Mr. Speaker:

The Senate has adopted the report of Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6032, and has passed the bill as recommended by the Conference Committee, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

April 20, 2007

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House: SUBSTITUTE SENATE BILL NO. 5085, SUBSTITUTE SENATE BILL NO. 5097, SUBSTITUTE SENATE BILL NO. 5288, ENGROSSED SUBSTITUTE SENATE BILL NO. 5317, ENGROSSED SUBSTITUTE SENATE BILL NO. 5372, ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5557, SUBSTITUTE SENATE BILL NO. 5830, ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6044, and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2007

Mr. Speaker:

The Senate has granted the request of the House for a Conference on SUBSTITUTE HOUSE BILL NO. 1128. The President has appointed the following members as Conferees: Senators Prentice, Pridemore and Zarelli, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6158, and the same is herewith transmitted.

Thomas Hoemann, Secretary

INTRODUCTION & FIRST READING

HB 2410 by Representatives Lantz, Flannigan and Kirby

AN ACT Relating to local retail sales and use tax for parks and recreation, trails, and open space allocation; and adding a new section to chapter 82.14 RCW.

Referred to Committee on Finance.

HB 2411 by Representatives Linville, Bailey, B. Sullivan, Kristiansen, Pettigrew, Skinner and Chase

AN ACT Relating to providing a source of funding to assist small manufacturers in obtaining modernization and manufacturing extension services; reenacting and amending RCW 82.32.590; adding new sections to chapter 82.04 RCW; adding a new chapter to Title 43 RCW; and providing an expiration date.

Referred to Committee on Community & Economic Development & Trade.

HB 2412 by Representative Simpson

AN ACT Relating to administration programs and operations of port districts; amending RCW 53.29.020 and 53.29.030; and repealing RCW 53.06.010, 53.06.020, 53.06.030, 53.06.040, 53.06.050, 53.06.060, 53.06.070, 53.06.080, and 53.06.090.

Referred to Committee on Local Government.

HB 2413 by Representatives McIntire, Fromhold, McDonald, Hankins, Skinner, Quall, McDermott, Eickmeyer, Chase, B. Sullivan, Eddy, Kirby, Wood, Flannigan, Kretz, Hailey, Chandler, DeBolt, Orcutt, Haler, Ericksen, Hunter, Hasegawa, Conway, Grant, McCune, Newhouse, Pettigrew, Blake, Alexander,

Williams, Buri, O'Brien, Bailey, Appleton, Springer, Jarrett, Anderson, Miloscia, Priest, Roach, Linville, Sump, Rodne, Warnick, Ross, Green, Kenney, Schual-Berke, Hinkle, VanDeWege, Pearson, Crouse, Barlow, Schindler, Sells, Sommers, Clibborn, Morris, Morrell, Hunt, Darneille, Pedersen, Hurst, Kristiansen, Cody, McCoy, Haigh, P. Sullivan, Chopp, Simpson, Dunshee, Wallace, Campbell, Kagi, Goodman, Strow, Walsh, Dunn, Lantz, Kessler, Seaquist, Hudgins, Moeller, Ericks and Dickerson

Formatting change to accommodate amendment.

AN ACT Relating to establishing the full light of day act; creating new sections; and providing an effective date.

Referred to Committee on State Government & Tribal Affairs.

ESSB 6158 by Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

AN ACT Relating to biennial rebasing of nursing facility medicaid payment rates; amending RCW 74.46.410, 74.46.431, 74.46.506, 74.46.511, 74.46.521, and 74.46.020; adding a new section to chapter 74.46 RCW; providing an effective date; and declaring an emergency.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated with the exception of ENGROSSED SUBSTITUTE SENATE BILL NO. 6158 which is placed on the Second Reading calendar.

MESSAGE FROM THE SENATE

April 20, 2007

Mr. Speaker:

The Senate has adopted the report of Conference Committee on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094, and has passed the bill as recommended by the Conference Committee, and the same is herewith transmitted.

Thomas Hoemann, Secretary

REPORT OF CONFERENCE COMMITTEE

April 20, 2007

Mr. Speaker:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094, making transportation appropriations for the 2005-07 and 2007-09 fiscal biennia, have had the same under consideration and we recommend that:

All previous amendments not be adopted and that the attached striking amendment (S-3559.5/07) be adopted

Strike everything after the enacting clause and insert the following:

"2007-09 BIENNIUM

NEW SECTION. Sec. 1. (1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2009.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this act.

(a) "Fiscal year 2008" or "FY 2008" means the fiscal year ending June 30, 2008.

(b) "Fiscal year 2009" or "FY 2009" means the fiscal year ending June 30, 2009.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

(f) "Reappropriation" means appropriation and, unless the context clearly provides otherwise, is subject to the relevant conditions and limitations applicable to appropriations.

(g) "LEAP" means the legislative evaluation and accountability program committee.

GENERAL GOVERNMENT AGENCIES--OPERATING

NEW SECTION. Sec. 101. FOR THE UTILITIES AND TRANSPORTATION COMMISSION

Grade Crossing Protective Account--State Appropriation \$505,000

NEW SECTION. Sec. 102. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Motor Vehicle Account--State Appropriation \$3,054,000

Puget Sound Ferry Operations Account--State Appropriation \$100,000

TOTAL APPROPRIATION \$3,154,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,545,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

(2) \$75,000 of the motor vehicle account state appropriation is provided solely to address transportation budget and reporting requirements.

NEW SECTION. Sec. 103. FOR THE MARINE EMPLOYEES COMMISSION

Puget Sound Ferry Operations Account--State Appropriation \$422,000

NEW SECTION. Sec. 104. FOR THE STATE PARKS AND RECREATION COMMISSION

Motor Vehicle Account--State Appropriation \$985,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation in this section is provided solely for road maintenance purposes.

NEW SECTION. Sec. 105. FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account--State Appropriation \$1,358,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.

(2) \$1,007,000 of the motor vehicle account--state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

NEW SECTION. Sec. 106. FOR THE DEPARTMENT OF ARCHEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account--State Appropriation \$223,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for staffing costs to be dedicated to state transportation activities. Staff hired to support transportation activities must have practical experience with complex construction projects.

NEW SECTION. Sec. 107. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Motor Vehicle Account--State Appropriation \$1,595,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$800,000 of the motor vehicle account--state appropriation is provided solely for the continued maintenance and support of the transportation executive information system (TEIS).

(2) \$795,000 of the motor vehicle account--state appropriation is provided solely for development of a new transportation capital budgeting system and transition of a copy of the transportation executive information system (TEIS) to LEAP. At a minimum, the new budgeting system development effort must provide comprehensive schematic diagrams of the current and proposed transportation capital budget process, information flows, and data exchanges; common, agreed-upon data definitions and business rules; detailed transportation capital budget data and system requirements; and a strategy for implementation, including associated costs and a timeframe.

NEW SECTION. Sec. 108. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE As part of its 2007-09 biennium workplan, the committee shall:

(1) Review the Washington state ferries' assignment of preservation costs as required by Engrossed Substitute House Bill No. 2358, for fiscal year 2008, to determine whether costs are capital costs and whether they meet the statutory requirements for preservation activities, and report its findings to the legislature not later than January 2009.

(2) Review the Washington state ferries' implementation of the life cycle cost model, as required by Engrossed Substitute House Bill No. 2358, and report to the legislature not later than June 30, 2009, on whether the model:

(a) Complies with available industry standards or department-adopted standard life cycles derived from the experience of similar public and private entities when industry standards are not available;

(b) Is maintained and updated when asset inspections are made;

(c) Excludes utilities and other systems that are not replaced on a standard life cycle;

(d) Provides that all assets in the life-cycle cost model are inspected and updated for asset condition at least every three years; and

(e) Excludes assets not yet built.

(3) The committee shall solicit input regarding the study workplan from the joint transportation committee.

TRANSPORTATION AGENCIES--OPERATING

NEW SECTION. Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account--State Appropriation	\$2,609,000
Highway Safety Account--Federal Appropriation	\$15,880,000
School Zone Safety Account--State Appropriation	\$3,300,000
TOTAL APPROPRIATION	\$21,789,000

NEW SECTION. Sec. 202. FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account--State Appropriation	\$907,000
Motor Vehicle Account--State Appropriation	\$2,075,000
County Arterial Preservation Account--State Appropriation	\$1,399,000
TOTAL APPROPRIATION	\$4,381,000

The appropriations in this section are subject to the following conditions and limitations: \$481,000 of the county arterial preservation account--state appropriation is provided solely for continued development and implementation of a maintenance management system to manage county transportation assets.

NEW SECTION. Sec. 203. FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account--State Appropriation	\$1,793,000
Transportation Improvement Account--State Appropriation	\$1,795,000
TOTAL APPROPRIATION	\$3,588,000

NEW SECTION. Sec. 204. FOR THE BOARD OF PILOTAGE COMMISSIONERS

Pilotage Account--State Appropriation	\$1,156,000
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NEW SECTION. Sec. 205. FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account--State Appropriation	\$2,103,000
Multimodal Transportation Account--State Appropriation	\$550,000
TOTAL APPROPRIATION	\$2,653,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$500,000 of the motor vehicle account--state appropriation is for establishing a workgroup to implement Engrossed Substitute House Bill No. 2358 (regarding state ferries) and review other matters relating to Washington state ferries. The cochairs of the committee shall establish the workgroup comprising committee members or their designees, an appointee by the governor, and other stakeholders as appointed by the cochairs, to assist in the committee's work. The workgroup shall report the progress of its tasks to the transportation committees of the legislature by December 15, 2007. The workgroup is tasked with the following:

(a) Implementing the recommendations of Engrossed Substitute House Bill No. 2358 (regarding state ferries). As directed by Engrossed Substitute House Bill No. 2358, the committee workgroup shall participate in and provide a review of the following:

- (i) The Washington transportation commission's development and interpretation of a survey of ferry customers;
- (ii) The department of transportation's analysis and reestablishment of vehicle level of service standards. In reestablishing the standards, consideration must be given to whether boat wait is the appropriate measure;
- (iii) The department's development of pricing policy proposals. In developing these policies, the policy, in effect on some routes, of collecting fares in only one direction must be evaluated to determine whether one-way fare pricing best serves the ferry system;
- (iv) The department's development of operational strategies;
- (v) The department's development of terminal design standards; and
- (vi) The department's development of a long-range capital plan;

(b) Reviewing the following Washington state ferry programs:

- (i) Ridership demand forecast;
- (ii) Updated life cycle cost model, as directed by Engrossed Substitute House Bill No. 2358;
- (iii) Administrative operating costs, nonlabor and nonfuel operating costs, Eagle Harbor maintenance facility program and maintenance costs, administrative and systemwide capital costs, and vessel preservation costs; and
- (iv) The Washington state ferries' proposed capital cost allocation plan methodology, as described in Engrossed Substitute House Bill No. 2358;

(c) Making recommendations regarding:

- (i) The most efficient timing and sizing of future vessel acquisitions beyond those currently authorized by the legislature. Vessel acquisition recommendations must be based on the ridership projections, level of service standards, and operational and pricing strategies reviewed by the committee and must include the impact of those recommendations on the timing and size of terminal capital investments and the state ferries' long range operating and capital finance plans; and
- (ii) Capital financing strategies for consideration in the 2009 legislative session. This work must include confirming the department's estimate of future capital requirements based on a long range capital plan and must include the department's development of a plan for codevelopment and public private partnership opportunities at public ferry terminals; and

(d) Evaluate the capital cost allocation plan methodology developed by the department to implement Engrossed Substitute House Bill No. 2358.

(2) \$250,000 of the motor vehicle account--state appropriation and \$250,000 of the multimodal transportation account--state appropriation are for the implementation of Substitute Senate Bill No. 5207.

(3) \$300,000 of the multimodal transportation account--state appropriation is for implementing Substitute House Bill No. 1694 (coordinated transportation). If Substitute House Bill No. 1694 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 206. FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account--State Appropriation	\$2,276,000
Multimodal Transportation Account--State Appropriation	\$112,000
TOTAL APPROPRIATION	\$2,388,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$350,000 of the motor vehicle account--state appropriation is provided solely for the commission to conduct a survey of ferry customers as described in Engrossed Substitute House Bill No. 2358. Development and interpretation of the survey must be done with participation of the joint transportation committee workgroup established in section 205(1) of this act.

(2) \$100,000 of the motor vehicle account--state appropriation is provided solely for a study to identify and evaluate long-term financing alternatives for the Washington state ferry system. The study shall incorporate the findings of the initial survey described in subsection (1) of this section, and shall consider the potential for state, regional, or local financing options. The commission shall submit a draft final report of its findings and recommendations to the transportation committees of the legislature no later than December 2008.

(3) The commission shall conduct a planning grade tolling study that is based on the recommended policies in the commission's comprehensive tolling study submitted September 20, 2006.

NEW SECTION. Sec. 207. FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Motor Vehicle Account--State Appropriation	\$695,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) The freight mobility strategic investment board shall, on a quarterly basis, provide status reports to the office of financial management and the transportation committees of the legislature on the delivery of projects funded by this act.

(2) The freight mobility strategic investment board and the department of transportation shall collaborate to submit a report to the office of financial management and the transportation committees of the legislature by September 1, 2008, listing proposed freight highway and rail projects. The report must describe the analysis used for selecting such projects, as required by chapter 47.06A RCW for the board and as required by this act for the department. When developing its list of proposed freight highway and rail projects, the freight mobility strategic investment board shall use the priorities identified in section 309(7)(a) of this act to the greatest extent possible.

NEW SECTION. Sec. 208. FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU

State Patrol Highway Account--State Appropriation	\$225,445,000
State Patrol Highway Account--Federal Appropriation	\$10,602,000
State Patrol Highway Account--Private/Local Appropriation	\$410,000
TOTAL APPROPRIATION	\$236,457,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol.

(2) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account under RCW 43.79.470 no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund--state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(3) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the governor and transportation committees of the senate and house of representatives by September 30th of each year.

(4) \$1,662,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (commercial vehicle enforcement). If Substitute House Bill No. 1304 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(5) During the fiscal year 2008, the Washington state patrol shall continue to perform traffic accident investigations on Thurston, Mason, and Lewis county roads, and shall work with the counties to transition the traffic accident investigations on county roads to the counties by July 1, 2008.

(6) \$100,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1417 (health benefits for surviving dependents). If Substitute House Bill No. 1417 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(7) \$3,300,000 of the state patrol highway account--state appropriation is provided solely for the salaries and benefits associated with accretion in the number of troopers employed above 1,158 authorized commissioned troopers.

NEW SECTION. Sec. 209. FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU

State Patrol Highway Account--State Appropriation	\$1,300,000
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NEW SECTION. Sec. 210. FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU

State Patrol Highway Account--State Appropriation	\$103,157,000
State Patrol Highway Account--Private/Local Appropriation	\$2,008,000
TOTAL APPROPRIATION	\$105,165,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The Washington state patrol shall work with the risk management division in the office of financial management in compiling the Washington state patrol's data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the legislative transportation committees by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.

(2) \$12,641,000 of the total appropriation is provided solely for automobile fuel in the 2007-2009 biennium.

(3) \$8,678,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(4) \$5,254,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(5) \$384,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(6) The Washington state patrol may submit information technology related requests for funding only if the patrol has coordinated with the department of information services as required by section 602 of this act.

NEW SECTION. Sec. 211. FOR THE WASHINGTON STATE PATROL--CRIMINAL HISTORY AND BACKGROUND

CHECKS. In accordance with RCW 10.97.100 and chapter 43.43 RCW, the Washington state patrol is authorized to perform criminal history and background checks for state and local agencies and nonprofit and other private entities and disseminate the records resulting from these activities. The Washington state patrol is required to charge a fee for these activities, for which it is the policy of the state of Washington that the fees cover the direct and indirect costs of performing the criminal history and background checks and disseminating the information. For each type of criminal history and background check and dissemination of these records, the Washington state patrol shall, as nearly as practicable, set fees at levels sufficient to cover the direct and indirect costs. Pursuant to RCW 43.135.055, during the 2007-2009 fiscal biennium, the Washington state patrol may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the cost of supervision and regulation.

NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF LICENSING

Marine Fuel Tax Refund Account--State Appropriation	\$32,000
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Motorcycle Safety Education Account--State Appropriation	\$3,905,000
Wildlife Account--State Appropriation	\$843,000
Highway Safety Account--State Appropriation	\$141,953,000
Highway Safety Account--Federal Appropriation	\$233,000
Motor Vehicle Account--State Appropriation	\$79,230,000
Motor Vehicle Account--Private/Local Appropriation	\$1,372,000
Motor Vehicle Account--Federal Appropriation	\$117,000
Department of Licensing Services Account--State Appropriation	\$3,540,000
Washington State Patrol Highway Account--State Appropriation	\$1,145,000
TOTAL APPROPRIATION	\$232,370,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,941,000 of the highway safety account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1267 (modifying commercial driver's license requirements). If Substitute House Bill No. 1267 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse. The department shall informally report to the legislature by December 1, 2008, with measurable data indicating the department's progress in meeting its goal of improving public safety by improving the quality of the commercial driver's license testing process.

(2) \$716,000 of the motorcycle safety education account--state appropriation is provided solely for the implementation of Senate Bill No. 5273 (modifying motorcycle driver's license endorsement and education provisions). If Senate Bill No. 5273 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(3) \$8,872,000 of the highway safety account--state appropriation is provided solely for costs associated with the systems development and issuance of enhanced drivers' licenses and identicards to facilitate crossing the Canadian border. If Engrossed Substitute House Bill No. 1289 (relating to the issuance of enhanced drivers' licenses and identicards) is not enacted by June 30, 2007, the amount provided in this subsection shall lapse. The department may expend funds only after acceptance of the enhanced Washington state driver's license for border crossing purposes by the Canadian and United States governments. The department may expend funds only after prior written approval of the director of financial management. Of the amount provided in this subsection, up to \$1,000,000 is for a statewide educational campaign, which must include coordination with existing public and private entities, to inform the Washington public of the benefits of the new enhanced drivers' licenses and identicards.

(4) \$91,000 of the motor vehicle account--state appropriation and \$152,000 of the highway safety account--state appropriation are provided solely for contracting with the office of the attorney general to investigate criminal activity uncovered in the course of the agency's licensing and regulatory activities. Funding is provided for the 2008 fiscal year. The department may request funding for the 2009 fiscal year if the request is submitted with measurable data indicating the department's progress in meeting its goal of increased prosecution of illegal activity.

(5) \$350,000 of the highway safety account--state appropriation is provided solely for the costs associated with the systems development of the interface that will allow insurance carriers and their agents real time, online access to drivers' records. If Substitute Senate Bill No. 5937 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(6) \$1,145,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (modifying commercial motor vehicle carrier provisions). If Substitute House Bill No. 1304 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(7) The department may submit information technology related requests for funding only if the department has coordinated with the department of information services as required by section 602 of this act.

(8) Within the amounts appropriated in this section, the department shall, working with the legislature, develop a proposal to streamline title and registration statutes to specifically address apparent conflicts, fee distribution, and other recommendations by the department that are revenue neutral and which do not change legislative policy. The department shall report the results of this review to the transportation committees of the legislature by December 1, 2007.

NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B

High-Occupancy Toll Lanes Account--State Appropriation	\$2,596,000
Motor Vehicle Account--State Appropriation	\$5,600,000
Tacoma Narrows Toll Bridge Account--State Appropriation	\$28,218,000
TOTAL APPROPRIATION	\$36,414,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$5,000,000 of the motor vehicle account--state is provided solely to provide a reserve for the Tacoma Narrows Bridge project. This appropriation shall be held in unallotted status until the office of financial management deems that revenues applicable to the Tacoma Narrows Bridge project are not sufficient to cover the project's expenditures.

(2) The department shall solicit private donations to fund activities related to the opening ceremonies of the Tacoma Narrows bridge project.

NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF TRANSPORTATION--INFORMATION TECHNOLOGY--PROGRAM C

Transportation Partnership Account--State Appropriation	\$4,556,000
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Motor Vehicle Account--State Appropriation	\$67,613,000
Motor Vehicle Account--Federal Appropriation	\$1,096,000
Puget Sound Ferry Operations Account--State Appropriation	\$9,192,000
Multimodal Transportation Account--State Appropriation	\$363,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$4,000,000
TOTAL APPROPRIATION	\$86,820,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall consult with the office of financial management and the department of information services to ensure that (a) the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(2) The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system (TEIS). The department shall also provide updated information on six project milestones for projects, funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis in TEIS.

(3) \$2,300,000 of the motor vehicle account--state appropriation is provided solely for preliminary work needed to transition the department to the state government network. In collaboration with the department of information services the department shall complete an inventory of the current network infrastructure, and develop an implementation plan for transition to the state government network.

(4) \$1,000,000 of the motor vehicle account--state appropriation, \$4,556,000 of the transportation partnership account--state appropriation, and \$4,000,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the department to develop a project management and reporting system which is a collection of integrated tools for capital construction project managers to use to perform all the necessary tasks associated with project management. The department shall integrate commercial off-the-shelf software with existing department systems and enhanced approaches to data management to provide web-based access for multi-level reporting and improved business workflows and reporting. Beginning September 1, 2007, and on a quarterly basis thereafter, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the system. The first report shall include a detailed work plan for the development and integration of the system including timelines and budget milestones. At a minimum the ensuing reports shall indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary.

(5) The department may submit information technology related requests for funding only if the department has coordinated with the department of information services as required by section 602 of this act.

(6) \$1,600,000 of the motor vehicle account--state appropriation is provided solely for the critical application assessment implementation project. The department shall submit a progress report on the critical application assessment implementation project to the house of representatives and senate transportation committees on or before December 1, 2007, and December 1, 2008, with a final report on or before June 30, 2009.

NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF TRANSPORTATION--FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION--PROGRAM D--OPERATING

Motor Vehicle Account--State Appropriation	\$34,569,000
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NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F

Aeronautics Account--State Appropriation	\$6,889,000
Aeronautics Account--Federal Appropriation	\$2,150,000
Multimodal Transportation Account--State Appropriation	\$631,000
TOTAL APPROPRIATION	\$9,670,000

The appropriations in this section are subject to the following conditions and limitations: The entire multimodal transportation account--state appropriation is provided solely for the aviation planning council as provided for in RCW 47.68.410.

NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM DELIVERY MANAGEMENT AND SUPPORT--PROGRAM H

Transportation Partnership Account--State Appropriation	\$2,422,000
Motor Vehicle Account--State Appropriation	\$50,446,000
Motor Vehicle Account--Federal Appropriation	\$500,000
Multimodal Transportation Account--State Appropriation	\$250,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$2,422,000
TOTAL APPROPRIATION	\$56,040,000

The appropriation in this section is subject to the following conditions and limitations: \$2,422,000 of the transportation partnership account appropriation and \$2,422,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for consultant contracts to assist the department in the delivery of the capital construction program by identifying improvements to program delivery, program

management, project controls, program and project monitoring, forecasting, and reporting. The consultants shall work with the department of information services in the development of the project management and reporting system.

The consultants shall provide an updated copy of the capital construction strategic plan to the legislative transportation committees and to the office of financial management on June 30, 2008, and each year thereafter.

The department shall coordinate its work with other budget and performance efforts, including Roadmap, the findings of the critical applications modernization and integration strategies study, including proposed next steps, and the priorities of government process.

The department shall report to the transportation committees of the house of representatives and senate, and the office of financial management, by December 31, 2007, on the implementation status of recommended capital budgeting and reporting options. Options must include: Reporting against legislatively-established project identification numbers and may include recommendations for reporting against other appropriate project groupings; measures for reporting progress, timeliness, and cost which create an incentive for the department to manage effectively and report its progress in a transparent manner; and criteria and process for transfers of funds among projects.

NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF TRANSPORTATION--ECONOMIC PARTNERSHIPS--PROGRAM

K

Motor Vehicle Account--State Appropriation	\$1,151,000
Multimodal Transportation Account--State Appropriation	\$300,000
TOTAL APPROPRIATION	\$1,451,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$300,000 of the multimodal account--state appropriation is provided solely for the department to hire a consultant to develop a plan for codevelopment and public-private partnership opportunities at public ferry terminals.
- (2) The department shall conduct an analysis and, if determined to be feasible, initiate requests for proposals involving the distribution of alternative fuels along state department of transportation rights-of-way.

NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM

M

Motor Vehicle Account--State Appropriation	\$321,888,000
Motor Vehicle Account--Federal Appropriation	\$2,000,000
Motor Vehicle Account--Private/Local Appropriation	\$5,797,000
TOTAL APPROPRIATION	\$329,685,000

The appropriations in this section are subject to the following conditions and limitations:

- (1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.
- (2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account--state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.
- (3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account--private/local appropriation.
- (4) \$1,500,000 of the motor vehicle account--federal appropriation is provided for unanticipated federal funds that may be received during the 2007-09 biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.
- (5) Funding is provided for maintenance on the state system to deliver service level targets as listed in LEAP Transportation Document 2007-C, as developed April 20, 2007. In delivering the program and aiming for these targets, the department should concentrate on the following areas:
 - (a) Eliminating the number of activities delivered in the "f" level of service at the region level; and
 - (b) Evaluating, analyzing, and potentially redistributing resources within and among regions to provide greater consistency in delivering the program statewide and in achieving overall level of service targets.
- (6) The department may work with the department of corrections to utilize corrections crews for the purposes of litter pickup on state highways.
- (7) \$650,000 of the motor vehicle account--state appropriation is provided solely for increased asphalt costs.

NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--OPERATING

Motor Vehicle Account--State Appropriation	\$52,040,000
Motor Vehicle Account--Federal Appropriation	\$2,050,000
Motor Vehicle Account--Private/Local Appropriation	\$127,000
TOTAL APPROPRIATION	\$54,217,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$654,000 of the motor vehicle account--state appropriation is provided solely for the department to time state-owned and operated traffic signals. This funding may also be used to program incident, emergency, or special event signal timing plans.

(2) \$346,000 of the motor vehicle account--state appropriation is provided solely for the department to implement a pilot tow truck incentive program. The department may provide incentive payments to towing companies that meet clearance goals on accidents that involve heavy trucks.

(3) \$6,800,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By January 1, 2008, and January 1, 2009, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(4) The department, in consultation with the Washington state patrol, may conduct a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways when workers are present.

(a) In order to ensure adequate time in the 2007-09 biennium to evaluate the effectiveness of the pilot program, any projects authorized by the department must be authorized by December 31, 2007.

(b) The department shall use the following guidelines to administer the program:

(i) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(ii) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(iii) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(iv) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(v) For purposes of the 2007-09 biennium pilot project, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account;

(vi) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction will be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use; and

(vii) By June 30, 2009, the department shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding the pilot project.

NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S

Motor Vehicle Account--State Appropriation	\$28,215,000
Motor Vehicle Account--Federal Appropriation	\$30,000
Puget Sound Ferry Operations Account--State Appropriation	\$1,321,000
Multimodal Transportation Account--State Appropriation	\$1,223,000
TOTAL APPROPRIATION	\$30,789,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall work with staffs from the legislative evaluation and accountability program committee, the transportation committees of the legislature, and the office of financial management on developing a new capital budgeting system to meet identified information needs.

(2) \$250,000 of the multimodal account--state appropriation is provided solely for implementing a wounded combat veteran's internship program, administered by the department. The department shall seek federal funding to support the continuation of this program.

NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T

Motor Vehicle Account--State Appropriation	\$30,698,000
Motor Vehicle Account--Federal Appropriation	\$19,163,000
Multimodal Transportation Account--State Appropriation	\$1,029,000
Multimodal Transportation Account--Federal Appropriation	\$2,809,000
Multimodal Transportation Account--Private/Local Appropriation	\$100,000
TOTAL APPROPRIATION	\$53,799,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,900,000 of the motor vehicle account--state appropriation is provided solely for the costs of the regional transportation investment district (RTID) and department of transportation project oversight. The department shall provide support from its urban corridors region to assist in preparing project costs, expenditure plans, and modeling. The department shall not deduct a management reserve, nor charge management or overhead fees. These funds, including those expended since 2003, are provided as a loan to the RTID and shall be repaid to the state within one year following formation of the RTID. \$2,391,000 of the amount provided under this subsection shall lapse, effective January 1, 2008, if voters fail to approve formation of the RTID at the 2007 general election, as determined by the certification of the election results.

(2) \$300,000 of the multimodal transportation account--state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community-based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

(3) \$320,000 of the motor vehicle account--state appropriation and \$128,000 of the motor vehicle account--federal appropriation are provided solely for development of a freight database to help guide freight investment decisions and track project effectiveness. The database will be based on truck movement tracked through geographic information system technology. TransNow will contribute an additional \$192,000 in federal funds which are not appropriated in the transportation budget. The department shall work with the freight mobility strategic investment board to implement this project.

(4) By December 1, 2008, the department shall require confirmation from jurisdictions that plan under the growth management act, chapter 36.70A RCW, and that receive state transportation funding under this act, that the jurisdictions have adopted standards for access permitting on state highways that meet or exceed department standards in accordance with RCW 47.50.030. The objective of this subsection is to encourage local governments, through the receipt of state transportation funding, to adhere to best practices in access control applicable to development activity significantly impacting state transportation facilities. By January 1, 2009, the department shall submit a report to the appropriate committees of the legislature detailing the progress of the local jurisdictions in adopting the highway access permitting standards.

(5) \$150,000 of the motor vehicle account--federal appropriation is provided solely for the costs to develop an electronic map-based computer application that will enable law enforcement officers and others to more easily locate collisions and other incidents in the field.

(6) The department shall add a position within the freight systems division to provide expertise regarding the trucking aspects of the state's freight system.

(7) The department shall evaluate the feasibility of developing a freight corridor bypass from Everett to Gold Bar on US 2, including a connection to SR 522. US 2 is an important freight corridor, and is an alternative route for I-90. Congestion, safety issues, and flooding concerns have all contributed to the need for major improvements to the corridor. The evaluation shall consider the use of toll lanes for the project. The department must report to the transportation committees of the legislature by December 1, 2007, on its analysis and recommendations regarding the benefit of a freight corridor and the potential use of freight toll lanes to improve safety and congestion in the corridor.

NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF TRANSPORTATION--CHARGES FROM OTHER AGENCIES--PROGRAM U

Motor Vehicle Account--State Appropriation	\$66,342,000
Motor Vehicle Account--Federal Appropriation	\$400,000
Multimodal Transportation Account--State Appropriation	\$259,000
TOTAL APPROPRIATION	\$67,001,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$36,665,000 of the motor vehicle fund--state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES	\$1,520,000
(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR	\$1,150,000
(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES	\$4,157,000
(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL	\$4,033,000
(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION	\$36,665,000
(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE	\$1,838,000
(g) FOR ARCHIVES AND RECORDS MANAGEMENT	\$647,000
(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES	\$1,070,000
(i) FOR USE OF FINANCIAL SYSTEMS PROVIDED BY THE OFFICE OF FINANCIAL MANAGEMENT	\$930,000
(j) FOR POLICY ASSISTANCE FROM THE DEPARTMENT OF INFORMATION SERVICES	\$1,138,000
(k) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE	\$8,859,000
(l) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE FOR THE SECOND PHASE OF THE BOLDT LITIGATION	\$158,000

NEW SECTION. Sec. 224. FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM

Regional Mobility Grant Program Account--State Appropriation	\$40,000,000
Multimodal Transportation Account--State Appropriation	\$85,202,000
Multimodal Transportation Account--Federal Appropriation	\$2,582,000
Multimodal Transportation Account--Private/Local Appropriation	\$291,000
TOTAL APPROPRIATION	\$128,075,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2005 as reported in the "Summary of Public Transportation - 2005" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2005 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3) \$8,600,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. No additional employees may be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. Additional criteria for selecting grants must include leveraging funds other than state funds.

(4) \$40,000,000 of the regional mobility grant program account--state appropriation is provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2007-B as developed April 20, 2007. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility shall be used only to fund projects on the LEAP Transportation Document 2007-B as developed April 20, 2007. The department shall provide annual status reports on December 15, 2007, and December 15, 2008, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants.

(5) \$17,168,087 of the multimodal transportation account--state appropriation is reappropriated and provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2006-D, regional mobility grant program projects as developed March 8, 2006. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility shall be used only to fund projects on the LEAP Transportation Document 2007-B as developed April 20, 2007, or the LEAP Transportation Document 2006-D as developed March 8, 2006.

(6) \$200,000 of the multimodal transportation account--state appropriation is provided solely for the department to study and then develop pilot programs aimed at addressing commute trip reduction strategies for K-12 students and for college and university students. The department shall submit to the legislature by January 1, 2009, a summary of the program results and recommendations for future student commute trip reduction strategies. The pilot programs are described as follows:

(a) The department shall consider approaches, including mobility education, to reducing and removing traffic congestion in front of schools by changing travel behavior for elementary, middle, and high school students and their parents; and

(b) The department shall design a program that includes student employment options as part of the pilot program applicable to college and university students.

(7) \$2,400,000 of the multimodal account--state appropriation is provided solely for establishing growth and transportation efficiency centers (GTEC). Funds are appropriated for one time only. The department shall provide in its annual report to the legislature an evaluation of the GTEC concept and recommendations on future funding levels.

(8) \$381,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1694 (reauthorizing the agency council on coordinated transportation). If Substitute House Bill No. 1694 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(9) \$136,000 of the multimodal transportation account--private/local appropriation is provided solely for the implementation of Senate Bill No. 5084 (updating rail transit safety plans). If Senate Bill No. 5084 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(10) \$60,000 of the multimodal transportation account--state appropriation is provided solely for low-income car ownership programs. The department shall collaborate with interested regional transportation planning organizations and metropolitan planning organizations to

determine the effectiveness of the programs at providing transportation solutions for low-income persons who depend upon cars to travel to their places of employment.

(11) \$1,000,000 of the multimodal transportation account--state appropriation is provided solely for additional funding for the trip reduction performance program, including telework enhancement projects. Funds are appropriated for one time only.

(12) \$2,000,000 of the multimodal transportation account--state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies.

NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X

Puget Sound Ferry Operations Account--State Appropriation	\$412,189,000
Multimodal Transportation Account--State Appropriation	\$1,830,000
TOTAL APPROPRIATION	\$414,019,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$79,191,000 of the Puget Sound ferry operations--state appropriation is provided solely for auto ferry vessel operating fuel in the 2007-2009 biennium.

(2) The Washington state ferries must work with the department's information technology division to implement an electronic fare system, including the integration of the regional fare coordination system (smart card). Each December and June, semiannual updates must be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

(3) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

(4) \$1,830,000 of the multimodal transportation account--state appropriation is provided solely to provide passenger-only ferry service. The ferry system shall continue passenger-only ferry service from Vashon Island to Seattle through June 30, 2008. Ferry system management shall continue to implement its agreement with the inlandboatmen's union of the pacific and the international organization of masters, mates and pilots providing for part-time passenger-only work schedules.

(5) \$932,000 of the Puget Sound ferries operations account--state appropriation is provided solely for compliance with department of ecology rules regarding the transfer of oil on or near state waters. Funding for compliance with on-board fueling rules is provided for the 2008 fiscal year. The department may request funding for the 2009 fiscal year if the request is submitted with an alternative compliance plan filed with the department of ecology, as allowed by rule.

(6) \$1,116,000 of the Puget Sound ferry operations account--state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery.

(7) \$378,000 of the Puget Sound ferry operations account--state appropriation is provided solely to meet the United States coast guard requirements for appropriate rest hours between shifts for vessel crews on the Bainbridge to Seattle and Edmonds to Kingston ferry routes.

(8) \$694,000 of the Puget Sound ferries operating account--state appropriation is provided solely for implementing Engrossed Substitute House Bill No. 2358 as follows:

(a) The department shall allow the joint transportation committee workgroup established in section 205(1) of this act to participate in the following elements as they are described in Engrossed Substitute House Bill No. 2358:

(i) Development and implementation of a survey of ferry customers;

(ii) Analysis and reestablishment of vehicle level of service standards. In reestablishing the standards, consideration shall be given to whether boat wait is the appropriate measure. The level of service standard shall be reestablished in conjunction with or after the survey has been implemented;

(iii) Development of pricing policy proposals. In developing these policies, the policies, in effect on some routes, of collecting fares in only one direction shall be evaluated to determine whether one-way fare pricing best serves the ferry system. The pricing policy proposals must be developed in conjunction with or after the survey has been implemented;

(iv) Development of operational strategies. The operational strategies shall be reestablished in conjunction with the survey or after the survey has been implemented;

(v) Development of terminal design standards. The terminal design standards shall be finalized after the provisions of subsections (a)(i) through (iv) and subsection (b) of this section have been developed and reviewed by the joint transportation committee; and

(vi) Development of a capital plan. The capital plan shall be finalized after terminal design standards have been developed by the department and reviewed by the joint transportation committee.

(b) The department shall develop a ridership demand forecast that shall be used in the development of a long-range capital plan. If more than one forecast is developed they must be reconciled.

(c) The department shall update the life cycle cost model to meet the requirements of Engrossed Substitute House Bill No. 2358 no later than August 1, 2007.

(d) The department shall develop a cost allocation methodology proposal to meet the requirements described in Engrossed Substitute House Bill No. 2358. The proposal shall be completed and presented to the joint transportation committee no later than August 1, 2007.

NEW SECTION. Sec. 226. FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING

Multimodal Transportation Account--State Appropriation	\$37,034,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) The department shall publish a final long-range plan for Amtrak Cascades by September 30, 2007. By December 31, 2008, the department shall submit to the office of financial management and the transportation committees of the legislature a midrange plan for Amtrak Cascades that identifies specific steps the department would propose to achieve additional service beyond current levels.

(2)(a) \$29,091,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(b) The department shall negotiate with Amtrak and Burlington Northern Santa Fe to adjust the Amtrak Cascades schedule to leave Bellingham at a significantly earlier hour.

(c) When Amtrak Cascades expands the second roundtrip between Vancouver, B.C. and Seattle, the department shall negotiate for the second roundtrip to leave Bellingham southbound no later than 8:30 a.m.

(3) No Amtrak Cascade runs may be eliminated.

(4) \$40,000 of the multimodal transportation account--state appropriation is provided solely for the produce railcar program. The department is encouraged to implement the produce railcar program by maximizing private investment.

(5) The department shall begin planning for a third roundtrip Cascades train between Seattle and Vancouver, B.C. by 2010.

NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--OPERATING

Motor Vehicle Account--State Appropriation	\$8,630,000
Motor Vehicle Account--Federal Appropriation	\$2,567,000
TOTAL APPROPRIATION	\$11,197,000

TRANSPORTATION AGENCIES--CAPITAL

NEW SECTION. Sec. 301. FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account--State Appropriation	\$2,934,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,200,000 is provided solely for the following minor works projects: \$195,000 for HVAC renovation at the Chehalis, Kelso, Okanogan, and Ellensburg detachments; \$50,000 for roof replacements at the Toppenish, Sea Tac NB, Sea Tac SB, and Plymouth weigh stations; \$35,000 for replacement of the Shelton academy roof drain and downspout; \$100,000 for parking lot repairs at Okanogan, Goldendale, Ritzville, and Moses Lake detachment offices and the Wenatchee 6 headquarters; \$290,000 for replacement of the weigh station scales at Brady and Artic; \$152,000 for carpet replacement at the Ritzville, Moses Lake, Morton, Kelso, Chehalis, Walla Walla, Kennewick, South King, and Hoquiam detachment offices; \$185,000 for HVAC replacement at Tacoma and Marysville detachment offices; \$330,000 for repair and upgrade of the Bellevue tower; \$473,000 for replacement of twenty-one communication site underground fuel tanks; \$240,000 for replacement of communication site buildings at Lind, Scoggans Mountain, and Lewiston Ridge; and \$150,000 for unforeseen emergency repairs.

(2) \$687,000 is provided solely for design and construction of regional waste water treatment systems for the Shelton academy of the Washington state patrol.

(3) \$47,000 is provided solely for predesign of a single, consolidated aviation facility at the Olympia airport to house the fixed wing operations of the Washington state patrol, the department of natural resources (DNR), and the department of fish and wildlife, and the rotary operations of the DNR.

NEW SECTION. Sec. 302. FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account--State Appropriation	\$64,000,000
Motor Vehicle Account--State Appropriation	\$2,368,000
County Arterial Preservation Account--State Appropriation	\$32,861,000
TOTAL APPROPRIATION	\$99,229,000

The appropriations in this section are subject to the following conditions and limitations: \$2,069,000 of the motor vehicle account--state appropriation may be used for county ferries. The board shall review the requests for county ferry funding in consideration with other projects funded from the board. If the board determines these projects are a priority over the projects in the rural arterial and county arterial preservation grant programs, then they may provide funding for these requests.

NEW SECTION. Sec. 303. FOR THE TRANSPORTATION IMPROVEMENT BOARD

Small City Pavement and Sidewalk Account--State Appropriation	\$4,500,000
Urban Arterial Trust Account--State Appropriation	\$129,600,000
Transportation Improvement Account--State Appropriation	\$90,643,000
TOTAL APPROPRIATION	\$224,743,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The transportation improvement account--state appropriation includes up to \$7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

(2) The urban arterial trust account--state appropriation includes up to \$15,000,000 in proceeds from the sale of bonds authorized in Substitute House Bill No. 2394. If Substitute House Bill No. 2394 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL

Motor Vehicle Account--State Appropriation \$6,202,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$584,000 of the motor vehicle account--state appropriation is for statewide administration.
- (2) \$750,000 of the motor vehicle account--state appropriation is for regional minor projects.
- (3) \$568,000 of the motor vehicle account--state appropriation is for the Olympic region headquarters property payments.
- (4) By September 1, 2007, the department shall submit to the transportation committees of the legislature predesign plans, developed using the office of financial management's predesign process, for all facility replacement projects to be proposed in the facilities 2008 budget proposal.
- (5) \$1,600,000 of the motor vehicle account--state appropriation is for site acquisition for the Tri-cities area maintenance facility.
- (6) \$2,700,000 of the motor vehicle account--state appropriation is for site acquisition for the Vancouver light industrial facility.
- (7) The department shall work with the office of financial management and staff of the transportation committees of the legislature to develop a statewide inventory of all department-owned surplus property that is suitable for development for department facilities or that should be sold. By December 1, 2008, the department shall report to the joint transportation committee on the findings of this study.

NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I

Transportation Partnership Account--State Appropriation	\$1,226,516,000
Motor Vehicle Account--State Appropriation	\$82,045,000
Motor Vehicle Account--Federal Appropriation	\$404,090,000
Motor Vehicle Account--Private/Local Appropriation	\$49,157,000
Special Category C Account--State Appropriation	\$29,968,000
Tacoma Narrows Toll Bridge Account--State Appropriation	\$142,484,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$1,100,746,000
Freight Congestion Relief Account--State Appropriation	\$40,000,000
TOTAL APPROPRIATION	\$3,075,006,000

The appropriations in this section are subject to the following conditions and limitations:

- (1) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2007-1, Highway Improvement Program (I) as developed April 20, 2007. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.
- (2) The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.
- (3) Within the amounts provided in this section, \$1,991,000 of the transportation partnership account--state appropriation, \$1,656,000 of the motor vehicle account--federal appropriation, and \$8,343,000 of the transportation 2003 account (nickel account)--state appropriation are for project 109040T as identified in the LEAP transportation document in subsection (1) of this section: I-90/Two Way Transit-Transit and HOV Improvements - Stage 1. Expenditure of the funds on construction is contingent upon revising the access plan for Mercer Island traffic such that Mercer Island traffic will have access to the outer roadway high occupancy vehicle (HOV) lanes during the period of operation of such lanes following the removal of Mercer Island traffic from the center roadway and prior to conversion of the outer roadway HOV lanes to high occupancy toll (HOT) lanes. Sound transit may only have access to the center lanes when alternative R8A is complete.
- (4) The Tacoma Narrows toll bridge account--state appropriation includes up to \$131,016,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.
- (5) The funding described in this section includes \$8,095,541 of the transportation 2003 account (nickel account)--state appropriation and \$237,241 of the motor vehicle account--private/local appropriation, which are for the SR 519 project. The total project is expected to cost no more than \$74,400,000 including \$11,950,000 in contributions from project partners.
- (6) To promote and support community-specific noise reduction solutions, the department shall:
 - (a) Prepare a draft directive that establishes how each community's priorities and concerns may be identified and addressed in order to allow consideration of a community's preferred methods of advanced visual shielding and aesthetic screening, for the purpose of improving the noise environment of major state roadway projects in locations that do not meet the criteria for standard noise barriers. The intent is for these provisions to be supportable by existing project budgets. The directive shall also include direction on the coordination and selection of visual and aesthetic options with local communities. The draft directive shall be provided to the standing transportation committees of the legislature by January 2008; and

(b) Pilot the draft directive established in (a) of this subsection in two locations along major state roadways. If practicable, the department should begin work on the pilot projects while the directive is being developed. One pilot project shall be located in Clark county on a significant capacity improvement project. The second pilot project shall be located in urban King county, which shall be on a corridor highway project through mixed land use areas that is nearing or under construction. The department shall provide a written report to the standing transportation committees of the legislature on the findings of the Clark county pilot project by January 2009, and the King county pilot project by January 2010. Based on results of the pilot projects, the department shall update its design manual, environmental procedures, or other appropriate documents to incorporate the directive.

(7) Funding allocated for mitigation costs is provided solely for the purpose of project impact mitigation, and shall not be used to develop or otherwise participate in the environmental assessment process.

(8) If the "Green Highway" provisions of Engrossed Second Substitute House Bill No. 1303 (cleaner energy) are enacted, the department shall erect signs on the interstate highways included in those provisions noting that these interstates have been designated "Washington Green Highways."

(9) If on the I-405/I-90 to SE 8th Street Widening project the department finds that there is an alternative investment to preserve reliable rail accessibility to major manufacturing sites within the I-405 corridor that are less expensive than replacing the Wilburton Tunnel, the department may enter into the necessary agreements to implement that alternative provided that costs remain within the approved project budget.

(10) The department should consider using mitigation banking on appropriate projects whenever possible, without increasing the cost to projects. The department should consider using the advanced environmental mitigation revolving account (AEMRA) for corridor and watershed based mitigation opportunities, in addition to project specific mitigation. However, the department shall not use agricultural lands of long-term commercial significance, as that term is used under chapter 36.70A RCW, for mitigation banking.

(11) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P, including, but not limited to, the SR 518, SR 519, SR 520, and Alaskan Way Viaduct projects.

(12) \$250,000 of the motor vehicle account--state appropriation is provided solely for an inland pacific hub study to develop an inland corridor for the movement of freight and goods to and through eastern Washington; and \$500,000 of the motor vehicle account--state appropriation is provided solely for the SR3/SR16 corridor study to plan and prioritize state and local improvements needed over the next 10-20 years to support safety, capacity development, and economic development within the corridor.

(13) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(14) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the SR 520 bridge replacement and HOV project. The federal funds described in this subsection shall not include those federal transit administration funds distributed by formula.

(15) Funding provided by this act for the Alaskan Way Viaduct project shall not be spent for preliminary engineering, design, right-of-way acquisition, or construction on the project if completion of the project would more likely than not reduce the capacity of the facility. Capacity shall be measured by including the consideration of the efficient movement of people and goods on the facility.

(16) The governor shall convene a collaborative process involving key leaders to determine the final project design for the Alaskan Way Viaduct.

(a) The process shall be guided by the following common principles: Public safety must be maintained; the final project shall meet both capacity and mobility needs; and taxpayer dollars must be spent responsibly.

(b) The state's project expenditures shall not exceed \$2,800,000,000.

(c) A final design decision shall be made by December 31, 2008.

(17) During the 2007-09 biennium, the department shall proceed with a series of projects on the Alaskan Way Viaduct that are common to any design alternative. Those projects include relocation of two electrical transmission lines, Battery Street tunnel upgrades, seismic upgrades from Lenora to the Battery Street tunnel, viaduct removal from Holgate to King Street, and development of transit enhancements and other improvements to mitigate congestion during construction.

(18) The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.

(19) The transportation 2003 account (nickel account)--state appropriation includes up to \$874,610,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

(20) The transportation partnership account--state appropriation includes up to \$900,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(21) The special category C account--state appropriation includes up to \$22,080,000 in proceeds from the sale of bonds authorized in Substitute House Bill No. 2394. If Substitute House Bill No. 2394 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(22) \$4,500,000 of the motor vehicle account--federal appropriation is provided solely for cost increases on the SR 304/Bremerton tunnel project.

(23) \$3,000,000 of the motor vehicle account--state appropriation is provided solely for initial design and right of way work on a new southbound SR 509 to eastbound SR 518 freeway-to-freeway elevated ramp.

(24) \$500,000 of the motor vehicle account--federal appropriation to the SR 543/I-5 to Canadian border project is provided solely for retaining wall facia improvements.

(25) \$1,400,000 of the motor vehicle account--federal appropriation is provided solely for the Westview school noise wall.

(26) \$1,600,000 of the motor vehicle account--federal appropriation is provided solely for two noise walls on SR 161 in King county.

(27) \$900,000 of the motor vehicle account--state appropriation and \$100,000 of the motor vehicle account--federal appropriation are provided solely for interchange design and planning work on US 12 at A street and tank farm road.

NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P

Transportation Partnership Account--State Appropriation	\$220,164,000
Motor Vehicle Account--State Appropriation	\$71,392,000
Motor Vehicle Account--Federal Appropriation	\$425,161,000
Motor Vehicle Account--Private/Local Appropriation	\$15,285,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$5,122,000
Puyallup Tribal Settlement Account--State Appropriation	\$11,000,000
TOTAL APPROPRIATION	\$748,124,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2007-1, Highway Preservation Program (P) as developed April 20, 2007. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) \$295,000 of the motor vehicle account--federal appropriation and \$5,000 of the motor vehicle account--state appropriation are provided solely for the department to determine the most cost efficient way to replace the current Keller ferry. Options reviewed shall not include an expansion of the current capacity of the Keller ferry.

(3) \$5,513,000 of the transportation partnership account--state appropriation is provided solely for the purposes of settling all identified and potential claims from the Lower Elwha Klallam Tribe related to the construction of a graving dock facility on the graving dock property. In the matter of *Lower Elwha Klallam Tribe et al v. State et al*, Thurston county superior court, cause no. 05-2-01595-8, the Lower Elwha Klallam Tribe and the state of Washington entered into a settlement agreement that settles all claims related to graving dock property and associated construction and releases the state from all claims related to the construction of the graving dock facilities. The expenditure of this appropriation is contingent on the conditions and limitations set forth in subsections (a) and (b) of this subsection.

(a) \$2,000,000 of the transportation partnership account--state appropriation is provided solely for the benefit of the Lower Elwha Klallam Tribe to be disbursed by the department in accordance with terms and conditions of the settlement agreement.

(b) \$3,513,000 of the transportation partnership account--state appropriation is provided solely for the department's remediation work on the graving dock property in accordance with the terms and conditions of the settlement agreement.

(4) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P, including, but not limited to, the SR 518, SR 519, SR 520, and Alaskan Way Viaduct projects.

(5) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(6) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(7) \$2,604,501 of the motor vehicle account--federal appropriation and \$3,000,000 of the motor vehicle account--state appropriation are for expenditures on damaged state roads due to flooding, mudslides, rock fall, or other unforeseen events.

(8) \$9,665 of the motor vehicle account--state appropriation, \$12,652,812 of the motor vehicle account--federal appropriation, and \$138,174,581 of the transportation partnership account--state appropriation are provided solely for the Hood Canal bridge project.

NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL

Motor Vehicle Account--State Appropriation	\$9,212,000
Motor Vehicle Account--Federal Appropriation	\$15,951,000
Motor Vehicle Account--Private/Local Appropriation	\$74,000

TOTAL APPROPRIATION \$25,237,000

The appropriations in this section are subject to the following conditions and limitations: The motor vehicle account--state appropriation includes \$8,833,000 provided solely for state matching funds for federally selected competitive grant or congressional earmark projects. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W

Puget Sound Capital Construction Account--State Appropriation	\$139,139,000
Puget Sound Capital Construction Account--Federal Appropriation	\$66,145,000
Multimodal Transportation Account--State Appropriation	\$4,100,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$76,525,000
TOTAL APPROPRIATION	\$285,909,000

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$6,432,000 of the Puget Sound capital construction account--state appropriation is provided solely for emergency capital costs.
- (2) \$16,567,000 of the Puget Sound capital construction account--state appropriation and \$4,100,000 of the multimodal transportation account--state appropriation are provided solely for the terminal projects listed:
 - (a) Anacortes ferry terminal - utilities work; right-of-way purchase for a holding area during construction; and completion of design and permitting on the terminal building, pick-up and drop-off sites, and pedestrian and bicycle facilities;
 - (b) Bainbridge Island ferry terminal - environmental planning;
 - (c) Bremerton ferry terminal - overhead loading control system and moving the terminal agent's office;
 - (d) Clinton ferry terminal - septic system replacement;
 - (e) Edmonds ferry terminal - right-of-way acquisition costs and federal match requirements;
 - (f) Friday Harbor ferry terminal - parking resurfacing;
 - (g) Keystone and Port Townsend ferry terminals - route environmental planning;
 - (h) Kingston ferry terminal - transfer span retrofit and overhead vehicle holding control system modifications;
 - (i) Mukilteo ferry terminal - right-of-way acquisition, archeological studies, and environmental planning;
 - (j) Port Townsend ferry terminal - wingwall replacement;
 - (k) Seattle ferry terminal - environmental planning, coordination with local jurisdictions, and coordination with highway projects; and
 - (l) Vashon Island and Seattle ferry terminals - modify the passenger-only facilities.
- (3) \$15,500,000 of the Puget Sound ferries operating account--state appropriation is provided solely for dolphin replacement projects at the Orcas Island and Vashon Island ferry terminals. The department shall submit a predesign study to the legislature and must receive legislative approval before beginning design or construction of these projects.
- (4) \$76,525,000 of the transportation 2003 account (nickel account)--state appropriation and \$50,985,000 of the Puget Sound capital construction account--state appropriation are provided solely for the procurement of four 144-vehicle auto-passenger ferry vessels.
- (5) \$18,716,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Eagle Harbor maintenance facility preservation project. These funds may not be used for relocating any warehouses not currently on the Eagle Harbor site.
- (6) The department shall research an asset management system to improve Washington state ferries' management of capital assets and the department's ability to estimate future preservation needs. The department shall report its findings regarding a new asset management system to the governor and the transportation committees of the legislature no later than January 15, 2008.
- (7) The department shall sell the M.V. Chinook and M.V. Snohomish passenger-only fast ferries as soon as practicable and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645. Once the department ceases to provide passenger-only ferry service, the department shall sell the M.V. Kalama and M.V. Skagit passenger-only ferries and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645.
- (8) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2007-09 fiscal biennium. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL

Essential Rail Assistance Account--State Appropriation	\$500,000
Freight Congestion Relief Account--State Appropriation	\$25,000,000
Transportation Infrastructure Account--State Appropriation	\$2,500,000
Multimodal Transportation Account--State Appropriation	\$154,637,000
Multimodal Transportation Account--Federal Appropriation	\$30,450,000
Multimodal Transportation Account--Private/Local Appropriation	\$7,894,000
TOTAL APPROPRIATION	\$220,981,000

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Except as provided in subsection (8) of this section, the entire appropriations in this section are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2007-1, Rail Capital Program (Y) as developed April 20, 2007. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(b) Within the amounts provided in this section, \$2,500,000 of the transportation infrastructure account--state appropriation is for low-interest loans for rail capital projects through the freight rail investment bank program. The department shall issue a call for projects based upon the legislative priorities specified in subsection (7)(a) of this section. Application must be received by the department by November 1, 2007. By December 1, 2007, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(c) Within the amounts provided in this section, \$3,335,000 of the multimodal transportation account--state appropriation is for statewide-emergent freight rail assistance projects. However, the department shall perform a cost/benefit analysis of the projects according to the legislative priorities specified in subsection (7)(a) of this section, and shall give priority to the following projects: Rail - Tacoma rail yard switching upgrades (\$500,000); Rail - Port of Ephrata spur rehabilitation (\$127,000); Rail - Lewis and Clark rail improvements (\$1,100,000); Rail - Port of Grays Harbor rail access improvements (\$543,000); Rail - Port of Longview rail loop construction (\$291,000); and Rail - Port of Chehalis (\$774,000). If the relative cost of any of the six projects identified in this subsection (1)(c) is not substantially less than the public benefits to be derived from the project, then the department shall not assign the funds to the project, and instead shall use those funds toward those projects identified by the department in the attachments to the "Washington State Department of Transportation FREIGHT RAIL ASSISTANCE FUNDING PROGRAM: 2007-2009 Prioritized Project List and Program Update" dated December 2006 for which the proportion of public benefits to be gained compared to the cost of the project is greatest.

(d) Within the amounts provided in this section, \$25,000,000 of the freight congestion relief account--state appropriation is for modifications to the Stampede Pass rail tunnel to facilitate the movement of double stacked rail cars. The department shall quantify and report to the legislature by December 1, 2007, the volume of freight traffic that would likely be shipped by rail rather than trucks if the Stampede Pass rail tunnel were modified to accommodate double stacked rail cars.

(e) Within the amounts provided in this section, \$200,000 of the multimodal transportation account--state appropriation is for rescoping the Kelso to Martin's Bluff - 3rd Mainline and Storage Tracks project. The rescoped project may include funds that are committed to the project by local or private funding partners. However, the rescoped project must be capable of being completed with not more than \$49,470,000 in future state funding. Subject to this funding constraint, the rescoped project must maximize capacity improvements along the rail mainline.

(f) Within the amounts provided in this section, \$3,600,000 of the multimodal transportation account--state appropriation is for work items on the Palouse River and Coulee City Railroad lines.

(2) The multimodal transportation account--state appropriation includes up to \$137,620,000 in proceeds from the sale of bonds authorized by RCW 47.10.867.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Program Y, including, but not limited to the "Tacoma -- bypass of Pt. Defiance" project.

(4) If new federal funding for freight or passenger rail is received, the department shall consult with the transportation committees of the legislature and the office of financial management prior to spending the funds on existing or additional projects.

(5) The department shall sell any ancillary property, acquired when the state purchased the right-of-ways to the PCC rail line system, to a lessee of the ancillary property who is willing to pay fair market value for the property. The department shall deposit the proceeds from the sale of ancillary property into the transportation infrastructure account.

(6) The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.

(7)(a) The department shall develop and implement the benefit/impact evaluation methodology recommended in the statewide rail capacity and needs study finalized in December 2006. The benefit/impact evaluation methodology shall be developed using the following priorities, in order of relative importance:

- (i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;
- (ii) Self-sustaining economic development that creates family-wage jobs;
- (iii) Preservation of transportation corridors that would otherwise be lost;
- (iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;
- (v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and
- (vi) Mitigation of impacts of increased rail traffic on communities.

(b) The department shall convene a work group to collaborate on the development of the benefit/impact analysis method to be used in the evaluation. The work group must include, at a minimum, the freight mobility strategic investment board, the department of agriculture, and representatives from the various users and modes of the state's rail system.

(c) The department shall use the benefit/impact analysis and priorities in (a) of this subsection when submitting requests for state funding for rail projects. The department shall develop a standardized format for submitting requests for state funding for rail projects that includes an explanation of the analysis undertaken, and the conclusions derived from the analysis.

(d) The department and the freight mobility strategic investment board shall collaborate to submit a report to the office of financial management and the transportation committees of the legislature by September 1, 2008, listing proposed freight highway and rail projects. The report must describe the analysis used for selecting such projects, as required by this act for the department and as required by chapter 47.06A RCW for the board. When developing its list of proposed freight highway and rail projects, the freight mobility strategic investment board shall use the priorities identified in (a) of this subsection to the greatest extent possible.

(8) \$5,000,000 of the multimodal transportation account--state appropriation is reappropriated and provided solely for the costs of acquisition of the PCC railroad associated with the memorandum of understanding (MOU), which was executed between Washington state and Watco. Total costs associated with the MOU shall not exceed \$10,937,000.

NEW SECTION. Sec. 310. FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--CAPITAL

Highway Infrastructure Account--State Appropriation	\$207,000
Highway Infrastructure Account--Federal Appropriation	\$1,602,000
Freight Mobility Investment Account--State Appropriation	\$12,500,000
Freight Congestion Relief Account--State Appropriation	\$46,720,000
Transportation Partnership Account--State Appropriation	\$2,906,000
Motor Vehicle Account--State Appropriation	\$9,854,000
Motor Vehicle Account--Federal Appropriation	\$60,150,000
Freight Mobility Multimodal Account--State Appropriation	\$12,100,000
Multimodal Transportation Account--Federal Appropriation	\$3,500,000
Multimodal Transportation Account--State Appropriation	\$33,158,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$2,706,000
Passenger Ferry Account--State Appropriation	\$8,500,000
TOTAL APPROPRIATION	\$193,903,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(2) \$8,500,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements in a business plan approved by the governor for passenger ferry service.

(3) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(4) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(5) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2007, and December 1, 2008.

(6) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, \$500,000 of the multimodal transportation account--state appropriation is contingent upon the state receiving from the city of Winthrop \$500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(7) \$7,000,000 of the multimodal transportation account--state appropriation, \$7,000,000 of the motor vehicle account--federal appropriation, and \$4,000,000 of the motor vehicle account--federal appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in the LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects as developed April 20, 2007. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(8) Up to a maximum of \$5,000,000 of the multimodal transportation account--state appropriation and up to a maximum of \$2,000,000 of the motor vehicle account--federal appropriation are reappropriated for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in the LEAP transportation document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(9) The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.

- (10) \$3,500,000 of the multimodal transportation account--federal appropriation is provided solely for the Museum of Flight pedestrian bridge safety project.
- (11) \$250,000 of the multimodal transportation account--state appropriation is provided solely for the icicle rail station in Leavenworth.
- (12) \$1,500,000 of the motor vehicle account--state appropriation is provided solely for the Union Gap city road project.
- (13) \$350,000 of the motor vehicle account--state appropriation is provided solely for the Saltwater state park bridge project.
- (14) \$1,000,000 of the motor vehicle account--state appropriation is provided solely for the coal creek parkway project.
- (15) \$250,000 of the multimodal transportation account--state appropriation is provided solely for a streetcar feasibility study in downtown Spokane.
- (16) \$500,000 of the motor vehicle account--state appropriation is provided solely for the marine view drive bridge project in Des Moines.

TRANSFERS AND DISTRIBUTIONS

NEW SECTION. Sec. 401. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	\$570,030,000
Ferry Bond Retirement Account Appropriation	\$38,059,000
Transportation Improvement Board Bond Retirement Account--State Appropriation	\$27,749,000
Nondebt-Limit Reimbursable Account Appropriation	\$19,359,000
Transportation Partnership Account--State Appropriation	\$6,694,000
Motor Vehicle Account--State Appropriation	\$986,000
Transportation Improvement Account--State Appropriation	\$68,000
Multimodal Transportation Account--State Appropriation	\$1,032,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$6,560,000
Urban Arterial Trust Account--State Appropriation	\$473,000
Special Category C Account Appropriation	\$160,000
TOTAL APPROPRIATION	\$671,170,000

NEW SECTION. Sec. 402. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Transportation Partnership Account--State Appropriation	\$2,254,000
Motor Vehicle Account--State Appropriation	\$329,000
Transportation Improvement Account--State Appropriation	\$5,000
Multimodal Transportation Account--State Appropriation	\$130,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$2,187,000
Urban Arterial Trust Account--State Appropriation	\$38,000
Special Category C Account--State Appropriation	\$53,000
TOTAL APPROPRIATION	\$4,996,000

NEW SECTION. Sec. 403. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

- (1) Motor Vehicle Account--State Reappropriation:
For transfer to the Tacoma Narrows Toll Bridge Account

\$131,016,000

The department of transportation is authorized to sell up to \$131,016,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

- (2) Motor Vehicle Account--State Appropriation:
For transfer to the Puget Sound Capital Construction Account

\$131,500,000

The department of transportation is authorized to sell up to \$131,500,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

NEW SECTION. Sec. 404. FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties	\$526,320,000
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NEW SECTION. Sec. 405. FOR THE STATE TREASURER--TRANSFERS

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and statutory transfers	\$937,181,000
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NEW SECTION. Sec. 406. FOR THE DEPARTMENT OF LICENSING--TRANSFERS

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and transfers	\$346,657,000
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NEW SECTION. Sec. 407. FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS

(1) Recreational Vehicle Account--State Appropriation: For transfer to the Motor Vehicle Account--State	\$3,005,000
(2) License Plate Technology Account--State Appropriation: For the Multimodal Transportation Account--State	\$4,500,000
(3) Motor Vehicle Account--State Appropriation: For transfer to the High-Occupancy Toll Lanes Operations-- State Account	\$3,000,000
(4) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account--State	\$20,000,000
(5) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State	\$39,000,000
(6) Advanced Right-of-Way Revolving Account--State Appropriation: For transfer to the Motor Vehicle Account--State	\$30,000,000
(7) Waste Tire Removal Account--State Appropriation: For transfer to the Motor Vehicle Account--State	\$5,600,000
(8) Motor Vehicle Account--State Appropriation: For transfer to the Transportation Partnership Account--State	\$25,000,000
(9) Multimodal Transportation Account--State Appropriation: For transfer to the General Fund--State	\$3,500,000
(10) Multimodal Transportation Account--State Appropriation: For transfer to the Transportation Infrastructure Account--State	\$7,000,000
(11) Highway Safety Account--State Appropriation: For transfer to the Multimodal Transportation Account--State	\$9,500,000

The transfers identified in this section are subject to the following conditions and limitations:

- (a) The amount transferred in subsection (3) of this section may be spent only on "highway purposes" as that term is construed in Article II, section 40 of the Washington state Constitution.
- (b) The amount transferred in subsection (10) of this section is contingent on the enactment of Engrossed Substitute Senate Bill No. 5799. If Engrossed Substitute Senate Bill No. 5799 is not enacted by June 30, 2007, the amount transferred shall lapse.

NEW SECTION. Sec. 408. STATUTORY APPROPRIATIONS. In addition to the amounts appropriated in this act for revenue for distribution, state contributions to the law enforcement officers' and firefighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made under law.

NEW SECTION. Sec. 409. The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

COMPENSATION

NEW SECTION. Sec. 501. COMPENSATION--NONREPRESENTED EMPLOYEES--INSURANCE BENEFITS. The appropriations for state agencies, are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed \$732 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be \$165.31. Starting January 1, 2009, the subsidy shall be \$184.26 per month.

NEW SECTION. Sec. 502. COMPENSATION--REPRESENTED EMPLOYEES OUTSIDE SUPER COALITION--INSURANCE BENEFITS. The appropriations for state agencies, are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, for represented employees outside the super coalition under chapter 41.80 RCW, shall not exceed \$707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed \$732 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be \$165.31. Starting January 1, 2009, the subsidy shall be \$184.26 per month.

NEW SECTION. Sec. 503. COMPENSATION--REPRESENTED EMPLOYEES--SUPER COALITION. Collective bargaining agreements negotiated as part of the super coalition under chapter 41.80 RCW include employer contributions to health insurance premiums at 88% of the cost. Funding rates at this level are currently \$707 per month for fiscal year 2008 and \$732 per month for fiscal year 2009. The agreements also include a one-time payment of \$756 for each employee who is eligible for insurance for the month of June, 2007, and is covered by a 2007-2009 collective bargaining agreement pursuant to chapter 41.80 RCW, as well as continuation of the salary increases that were negotiated for the twelve-month period beginning July 1, 2006, and scheduled to terminate June 30, 2007.

NEW SECTION. Sec. 504. COMPENSATION--PENSION CONTRIBUTIONS. The appropriations for state agencies, including institutions of higher education are subject to the following conditions and limitations: Appropriations are provided to fund employer contributions to state pension funds at the rates adopted by the pension funding council.

NEW SECTION. Sec. 505. COMPENSATION--REVISE PENSION GAIN SHARING. The appropriations for (schools) state agencies, including institutions of higher education are subject to the following conditions and limitations: Appropriations are adjusted to reflect changes to pension gain sharing as provided in House Bill No. 2391.

NEW SECTION. Sec. 506. NONREPRESENTED EMPLOYEE COMPENSATION. The appropriations for nonrepresented employee compensation adjustments are provided solely for:

(1) Across the Board Adjustments.

(a) Appropriations are provided for a 3.2% salary increase effective September 1, 2007, for all classified employees, except those represented by a collective bargaining unit under chapter 41.80 RCW, and except the certificated employees of the state schools for the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel.

The appropriations are also sufficient to fund a 3.2% salary increase effective September 1, 2007, and for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(b) Appropriations are provided for a 2.0% salary increase effective September 1, 2008, for all classified employees, except those represented by a collective bargaining unit under chapter 41.80 RCW, and except for the certificated employees of the state schools of the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel. The appropriations are also sufficient to fund a 2.0% salary increase effective September 1, 2008, for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(2) Salary Survey.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's 2006 salary survey, for job classes more than 25% below market rates and affected classes.

(3) Classification Consolidation.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's phase 4 job class consolidation and revisions under the personnel system reform act of 2002.

(4) Agency Request Consolidation.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's agency request job class consolidation and reclassification plan.

(5) Additional Pay Step.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for a new pay step L for those who have been in step K for at least one year.

(6) Retain Fiscal Year 2007 Pay Increase.

For all classified state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, and except for the certificated employees of the state schools of the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732, funding is provided for continuation of the 1.6% salary increase that was provided during fiscal year 2007. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel. The appropriations are also sufficient to continue a 1.6% salary increase for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

NEW SECTION. Sec. 507. COLLECTIVE BARGAINING AGREEMENTS. Provisions of the collective bargaining agreements contained in sections 508 through 519 of this act are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreements. The collective bargaining agreements contained in sections 508 through 519 may also be funded by expenditures from nonappropriated accounts. If positions are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources is not provided.

NEW SECTION. Sec. 508. COLLECTIVE BARGAINING AGREEMENT--IBU. Appropriations in this act contain funding for the collective bargaining agreement reached between the governor and the inlandboatmen's union of the pacific under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and increases ranging from 1.5% to 4% to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. Sec. 509. COLLECTIVE BARGAINING AGREEMENT--MEBA-LICENSED. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the marine engineers' beneficial association under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and increases ranging from 1% to 6% to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. Sec. 510. COLLECTIVE BARGAINING AGREEMENT--MEBA-UNLICENSED. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the marine engineers' beneficial association under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, and a 2% salary increase effective July 1, 2008.

NEW SECTION. Sec. 511. COLLECTIVE BARGAINING AGREEMENT--MM&P. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the international organization of master, mates & pilots, local 6, under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and increases ranging from 2.5% to 7.5% to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. Sec. 512. COLLECTIVE BARGAINING AGREEMENT--MM&P-WATCH SUPERVISORS. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the international organization of master, mates & pilots, watch supervisors, local 6, under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a 3% increase to address this specific classification which is below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. Sec. 513. COLLECTIVE BARGAINING AGREEMENT--METAL TRADES COUNCIL. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the Puget Sound metal trades council under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a \$0.95/hour salary adjustment to all classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. Sec. 514. COLLECTIVE BARGAINING AGREEMENT--FASPAA. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the ferry agents, supervisors, & project administrators association under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a 10% increase to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. Sec. 515. COLLECTIVE BARGAINING AGREEMENT--OPEIU. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the office & professional employees international union, local 8, under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a one salary range (5%) increase to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. Sec. 516. COLLECTIVE BARGAINING AGREEMENT--SEIU. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the service employees international union, local 6, under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a 5% increase to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. Sec. 517. COLLECTIVE BARGAINING AGREEMENT--WSP TROOPERS ASSOCIATION. Appropriations in this act reflect funding for the collective bargaining agreement reached between the governor and the Washington state patrol trooper's association under the provisions of chapter 41.56 RCW. For employees covered under this agreement, provisions include a 4.0% salary increase effective July 1, 2007, and a 4.0% salary increase effective July 1, 2008. Also effective July 1, 2007, positions located in King (10%), Snohomish (5%), or Pierce (3%) counties will receive geographic pay.

NEW SECTION. Sec. 518. COLLECTIVE BARGAINING AGREEMENT--WSP LIEUTENANTS ASSOCIATION. Appropriations in this act reflect funding for the collective bargaining agreement reached between the governor and the Washington state patrol lieutenant's association under the provisions of chapter 41.56 RCW. For employees covered under this agreement, provisions include a 4.0% salary increase effective July 1, 2007, and a 4.0% salary increase effective July 1, 2008. Also effective July 1, 2007, positions located in King (10%), Snohomish (5%), or Pierce (3%) counties will receive geographic pay.

NEW SECTION. Sec. 519. COLLECTIVE BARGAINING AGREEMENT--IFPTE. Appropriations in this act reflect the collective bargaining agreement reached between the governor and the international federation of professional and technical engineers under the provisions of chapter 41.80 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, and a 2% salary increase effective July 1, 2008. Select classifications will receive wage increases due to the implementation of the department of personnel's 2006 salary survey for classes more than 25% below market rates. These increases will be effective July 1, 2007. All employees covered under the agreement that have been at the top step of their range for a year or longer will progress to a new step L effective July 1, 2007.

IMPLEMENTING PROVISIONS

NEW SECTION. Sec. 601. Executive Order number 05-05, archaeological and cultural resources, was issued effective November 10, 2005. Agencies and higher education institutions that issue grants or loans for capital projects shall comply with the requirements set forth in this executive order.

NEW SECTION. Sec. 602. INFORMATION SYSTEMS PROJECTS. Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

(1) Agency planning and decisions concerning information technology shall be made in the context of its information technology portfolio. "Information technology portfolio" means a strategic management approach in which the relationships between agency missions and information technology investments can be seen and understood, such that: Technology efforts are linked to agency objectives and business plans; the impact of new investments on existing infrastructure and business functions are assessed and understood before implementation; and agency activities are consistent with the development of an integrated, nonduplicative statewide infrastructure.

(2) Agencies shall use their information technology portfolios in making decisions on matters related to the following:

- (a) System refurbishment, acquisitions, and development efforts;
- (b) Setting goals and objectives for using information technology in meeting legislatively-mandated missions and business needs;
- (c) Assessment of overall information processing performance, resources, and capabilities;
- (d) Ensuring appropriate transfer of technological expertise for the operation of any new systems developed using external resources; and
- (e) Progress toward enabling electronic access to public information.

(3) Each project will be planned and designed to take optimal advantage of Internet technologies and protocols. Agencies shall ensure that the project is in compliance with the architecture, infrastructure, principles, policies, and standards of digital government as maintained by the information services board.

(4) The agency shall produce a feasibility study for information technology projects at the direction of the information services board and in accordance with published department of information services policies and guidelines. At a minimum, such studies shall include a statement of: (a) The purpose or impetus for change; (b) the business value to the agency, including an examination and evaluation of benefits, advantages, and cost; (c) a comprehensive risk assessment based on the proposed project's impact on both citizens and state operations, its visibility, and the consequences of doing nothing; (d) the impact on agency and statewide information infrastructure; and (e) the impact of the proposed enhancements to an agency's information technology capabilities on meeting service delivery demands.

(5) The agency shall produce a comprehensive management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan(s) shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information technology project is intended to address; a statement of project objectives and assumptions; a definition and schedule of phases, tasks, and activities to be accomplished; and the estimated cost of each phase. The planning for the phased approach shall be such that the business case justification for a project needs to demonstrate how the project recovers cost or adds measurable value or positive cost benefit to the agency's business functions within each development cycle.

(6) The agency shall produce quality assurance plans for information technology projects. Consistent with the direction of the information services board and the published policies and guidelines of the department of information services, the quality assurance plan shall address all factors critical to successful completion of the project and successful integration with the agency and state information technology infrastructure. At a minimum, quality assurance plans shall provide time and budget benchmarks against which project progress can be measured, a specification of quality assurance responsibilities, and a statement of reporting requirements. The quality assurance plans shall set out the functionality requirements for each phase of a project.

(7) A copy of each feasibility study, project management plan, and quality assurance plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. The plans and studies shall demonstrate a sound business case that justifies the investment of taxpayer funds on any new project, an assessment of the impact of the proposed system on the existing information technology infrastructure, the disciplined use of preventative measures to mitigate risk, and the leveraging of private-sector expertise as needed. Authority to expend any funds for individual information systems projects is conditioned on the approval of the relevant feasibility study, project management plan, and quality assurance plan by the department of information services and the office of financial management.

(8) Quality assurance status reports shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees at intervals specified in the project's quality assurance plan.

NEW SECTION. Sec. 603. FUND TRANSFERS. (1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in LEAP Transportation Document 2007-1, which consists of a list of specific projects by fund source and amount over a sixteen year period. Current biennium funding for each project is a line item appropriation, while the outer year funding allocations represent a sixteen year balanced plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 (nickel) account projects on the LEAP lists referenced in this act. For the 2007-09 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, transportation partnership account appropriations, or multimodal transportation account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project, nor shall a transfer be made to support increases in the scope of a project;

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

(e) Transfers may not occur to projects not identified on the applicable project list; and

(f) Transfers may not be made while the legislature is in session.

(2) At the time the department submits a request to transfer funds under this section a copy of the request shall be submitted to the transportation committees of the legislature.

(3) The office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers.

(4) The office of financial management shall document approved transfers and/or schedule changes in the transportation executive information system (TEIS), compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP lists adopted in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

NEW SECTION. Sec. 604. MEGA-PROJECT REPORTING. Mega-projects are defined as individual or groups of related projects that cost \$1,000,000,000 or more. These projects include, but are not limited to: Alaskan Way Viaduct, SR 520, SR 167, I-405, North Spokane corridor, I-5 Tacoma HOV, and the Columbia River Crossing. The office of financial management shall track mega-projects and report the financial status and schedule of these projects at least once a year to the transportation committees of the legislature. The design of mega-projects must be evaluated considering cost, capacity, safety, mobility needs, and how well the design of the facility fits within its urban environment.

NEW SECTION. Sec. 605. Based on the anticipated outcomes of the tolling study, to be conducted under section 206 of this act, the legislature intends that tolls be charged to offset or partially offset the costs for the following projects, and that a managed lane concept be applied in their design and implementation: State Route 520 Bridge replacement and HOV project, and widening of Interstate 405.

MISCELLANEOUS 2007-09 BIENNIUM

Sec. 701. RCW 46.68.170 and 1996 c 237 s 2 are each amended to read as follows:

There is hereby created in the motor vehicle fund the RV account. All moneys hereafter deposited in said account shall be used by the department of transportation for the construction, maintenance, and operation of recreational vehicle sanitary disposal systems at safety rest areas in accordance with the department's highway system plan as prescribed in chapter 47.06 RCW. During the 2005-2007 and 2007-2009 fiscal biennia, the legislature may transfer from the RV account to the motor vehicle fund such amounts as reflect the excess fund balance of the RV account.

Sec. 702. RCW 47.29.170 and 2006 c 370 s 604 are each amended to read as follows:

Before accepting any unsolicited project proposals, the commission must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

- (1) Provisions that specify unsolicited proposals must meet predetermined criteria;
- (2) Provisions governing procedures for the cessation of negotiations and consideration;
- (3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the commission so directed;
- (4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and
- (5) Provisions that specify the process to be followed if the commission is interested in the concept proposal, which must include provisions:

- (a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;
- (b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and
- (c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The commission may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state. The commission may not accept or consider any unsolicited proposals before ~~((June 30, 2007))~~ July 1, 2009.

NEW SECTION. Sec. 703. To the extent that any appropriation authorizes expenditures of state funds from the motor vehicle account, special category C account, Tacoma Narrows toll bridge account, transportation 2003 account (nickel account), transportation partnership account, transportation improvement account, Puget Sound capital construction account, multimodal transportation account, or other transportation capital project account in the state treasury for a state transportation program that is specified to be funded with proceeds from the sale of bonds authorized in chapter 47.10 RCW, the legislature declares that any such expenditures made prior to the issue date of the applicable transportation bonds for that state transportation program are intended to be reimbursed from proceeds of those transportation bonds in a maximum amount equal to the amount of such appropriation.

Sec. 704. RCW 46.16.685 and 2003 c 370 s 4 are each amended to read as follows:

The license plate technology account is created in the state treasury. All receipts collected under RCW 46.01.140(4)(e)(ii) must be deposited into this account. Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system. During the 2007-2009 fiscal biennium, the legislature may transfer from the license plate technology account to the multimodal transportation account such amounts as reflect the excess fund balance of the license plate technology account.

Sec. 705. RCW 47.01.390 and 2006 c 311 s 27 are each amended to read as follows:

- (1) Prior to commencing construction on either project, the department of transportation must complete all of the following requirements for both the Alaskan Way viaduct and Seattle Seawall replacement project, and the state route number 520 bridge replacement and HOV project:
 - (a) In accordance with the national environmental policy act, the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate review using the department's cost estimate validation process, for each project;
 - (b) in accordance with all applicable federal highway administration planning and project management requirements, the department must prepare a project finance plan for each project that clearly identifies secured and anticipated fund sources, cash flow timing requirements, and project staging and phasing plans if applicable; and
 - (c) the department must report these results for each project to the joint transportation committee.
- (2) The requirements of this section shall not apply to (a) utility relocation work, and related activities, on the Alaskan Way viaduct and Seattle Seawall replacement project and (b) off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.
- (3) The requirements of subsection (1) of this section shall not apply during the 2007-2009 fiscal biennium.

Sec. 706. RCW 88.16.090 and 2005 c 26 s 2 are each amended to read as follows:

- (1) A person may pilot any vessel subject to this chapter on waters covered by this chapter only if licensed to pilot such vessels on such waters under this chapter.
- (2)(a) A person is eligible to be licensed as a pilot if the person:
 - (i) Is a citizen of the United States;
 - (ii) Is over the age of twenty-five years and under the age of seventy years;
 - (iii) Is a resident of the state of Washington at the time of licensure as a pilot;
 - (iv)(A) Holds at the time of application, as a minimum, a United States government license as master of steam or motor vessels of not more than one thousand six hundred gross register tons (three thousand international tonnage convention tons) upon oceans, near coastal waters, or inland waters; or the then most equivalent federal license as determined by the board; any such license to have been held by the applicant for a period of at least two years before application;

(B) Holds at the time of licensure as a pilot, after successful completion of the board-required training program, a first class United States endorsement without restrictions on the United States government license for the pilotage district in which the pilot applicant desires to be licensed; however, all applicants for a pilot examination scheduled to be given before July 1, 2008, must have the United States pilotage endorsement at the time of application; and

(C) The board may establish such other federal license requirements for applicants and pilots as it deems appropriate; and

(v) Successfully completes a board-specified training program.

(b) In addition to the requirements of (a) of this subsection, a pilot applicant must meet such other qualifications as may be required by the board.

(c) A person applying for a license under this section shall not have been convicted of an offense involving drugs or the personal consumption of alcohol in the twelve months prior to the date of application. This restriction does not apply to license renewals under this section.

(3) The board may establish such other training license and pilot license requirements as it deems appropriate.

(4) Pilot applicants shall be evaluated and ranked in a manner specified by the board based on their experience, other qualifications as may be set by the board, performance on a written examination or examinations established by the board, and performance in such other evaluation exercises as may be required by the board, for entry into a board-specified training program.

When the board determines that the demand for pilots requires entry of an applicant into the training program it shall issue a training license to that applicant, but under no circumstances may an applicant be issued a training license more than four years after taking the written entry examination. The training license authorizes the trainee to do such actions as are specified in the training program.

After the completion of the training program the board shall evaluate the trainee's performance and knowledge. The board, as it deems appropriate, may then issue a pilot license, delay the issuance of the pilot license, deny the issuance of the pilot license, or require further training and evaluation.

(5) The board may appoint a special independent committee or may contract with a firm knowledgeable and experienced in the development of professional tests and evaluations for development and grading of the examinations and other evaluation methods. Active licensed state pilots may be consulted for the general development of any examinations and evaluation exercises but shall have no knowledge of the specific questions. The pilot members of the board may participate in the grading of examinations. If the board does appoint a special examination or evaluation development committee it is authorized to pay the members of the committee the same compensation and travel expenses as received by members of the board. Any person who willfully gives advance knowledge of information contained on a pilot examination or other evaluation exercise is guilty of a gross misdemeanor.

(6) Pilots are licensed under this section for a term of five years from and after the date of the issuance of their respective state licenses. Licenses must thereafter be renewed as a matter of course, unless the board withholds the license for good cause. Each pilot shall pay to the state treasurer an annual license fee ~~((of three thousand dollars))~~ in an amount set by the board by rule. The fees established under this subsection may be increased in excess of the fiscal growth factor as provided in RCW 43.135.055 through the fiscal year ending June 30, 2009. The fees must be deposited in the state treasury to the credit of the pilotage account. The board may assess partially active or inactive pilots a reduced fee.

(7) All pilots and applicants are subject to an annual physical examination by a physician chosen by the board. The physician shall examine the applicant's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that pilots licensed by the state are able to perform their duties. Within ninety days of the date of each annual physical examination, and after review of the physician's report, the board shall make a determination of whether the pilot or applicant is fully able to carry out the duties of a pilot under this chapter. The board may in its discretion check with the appropriate authority for any convictions of offenses involving drugs or the personal consumption of alcohol in the prior twelve months.

(8) The board may require vessel simulator training for a pilot applicant and shall require vessel simulator training for a licensed pilot subject to RCW 88.16.105. The board shall also require vessel simulator training in the first year of active duty for a new pilot and at least once every five years for all active pilots.

(9) The board shall prescribe, pursuant to chapter 34.05 RCW, such reporting requirements and review procedures as may be necessary to assure the accuracy and validity of license and service claims. Willful misrepresentation of such required information by a pilot applicant shall result in disqualification of the pilot applicant.

Sec. 707. RCW 47.12.244 and 1991 c 291 s 2 are each amended to read as follows:

There is created the "advance right of way revolving fund" in the custody of the treasurer, into which the department is authorized to deposit directly and expend without appropriation:

(1) An initial deposit of ten million dollars from the motor vehicle fund included in the department of transportation's 1991-93 budget;

(2) All moneys received by the department as rental income from real properties that are not subject to federal aid reimbursement, except moneys received from rental of capital facilities properties as defined in chapter 47.13 RCW; and

(3) Any federal moneys available for acquisition of right of way for future construction under the provisions of section 108 of Title 23, United States Code.

(4) During the 2007-09 fiscal biennium, the legislature may transfer from the advance right of way revolving fund to the motor vehicle account amounts as reflect the excess fund balance of the advance right of way revolving fund.

Sec. 708. RCW 70.95.521 and 2005 c 354 s 3 are each amended to read as follows:

The waste tire removal account is created in the state treasury. All receipts from tire fees imposed under RCW 70.95.510 must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the cleanup of

unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles. During the 2007-2009 fiscal biennium, the legislature may transfer from the waste tire removal account to the motor vehicle fund such amounts as reflect the excess fund balance of the waste tire removal account.

NEW SECTION. Sec. 709. The department of transportation, in conjunction with the office of financial management, must implement the governmental accounting standards board's (GASB) statement number 34 including a complete inventory and valuation of the state's highway system. The financial reporting value of the state's highway system must be adjusted for any new additions to the system. The biennial reporting of the condition of the system must be related to the funding levels of maintaining the system. The department must maintain a current inventory of the state's highway system and estimate the actual cost to maintain and preserve the assets. In addition to the GASB statement 34, the department of transportation with the office of financial management's assistance must establish an asset replacement value for the entire state's highway system. During 2007, the cochairs of the joint transportation committee shall select legislators to work with the office of financial management and the department of transportation. The purpose of this effort is to enhance decision making that will result in strategic long-term investment decisions in transportation capital project management and asset preservation. The office of financial management will coordinate and manage the inventory and the valuation. The office of financial management must submit a final report to the legislative transportation committees on or before December 1, 2008.

Sec. 710. RCW 47.06A.030 and 1999 c 216 s 2 are each amended to read as follows:

(1) The freight mobility strategic investment board is created. The board shall convene by July 1, 1998.

(2) The board is composed of twelve members. The following members are appointed by the governor for terms of four years, except that five members initially are appointed for terms of two years: (a) Two members, one of whom is from a city located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the association of Washington cities or its successor; (b) two members, one of whom is from a county having a strategic freight corridor within its boundaries, appointed from a list of at least four persons nominated by the Washington state association of counties or its successor; (c) two members, one of whom is from a port district located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the Washington public ports association or its successor; (d) one member representing the office of financial management; (e) one member appointed as a representative of the trucking industry; (f) one member appointed as a representative of the railroads; (g) the secretary of the department of transportation; (h) one member representing the steamship industry; and (i) one member of the general public. For the 2007-09 biennium, the board shall also include a representative of organized labor. In appointing the general public member, the governor shall endeavor to appoint a member with special expertise in relevant fields such as public finance, freight transportation, or public works construction. The governor shall appoint the general public member as chair of the board. In making appointments to the board, the governor shall ensure that each geographic region of the state is represented.

(3) Members of the board shall be reimbursed for reasonable and customary travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations and departments under subsection (2) of this section must be filled from a list of at least four persons nominated by the relevant association or associations.

(5) The appointments made in subsection (2) of this section are not subject to confirmation.

Sec. 711. RCW 46.16.725 and 2005 c 319 s 119 and 2005 c 210 s 7 are each reenacted and amended to read as follows:

(1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the senate and house transportation committees;

(b) Report annually to the senate and house transportation committees on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees;

(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates that an organization or a governmental entity may apply for.

(4) In order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until ~~(June 1, 2007))~~ July 1, 2009. During this period of time, the special license plate review board created in RCW 46.16.705 and the department of licensing are prohibited from accepting, reviewing, processing, or approving any applications. Additionally, no special license plate may be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005.

NEW SECTION. Sec. 712. It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals established under this section are deemed consistent with the benchmark

categories adopted by the state's blue ribbon commission on transportation on November 30, 2000. Public investments in transportation should support achievement of these policy goals:

- (a) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;
- (b) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;
- (c) Mobility: To improve the predictable movement of goods and people throughout Washington state;
- (d) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and
- (e) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

NEW SECTION. Sec. 713. FOR THE DEPARTMENT OF TRANSPORTATION

Transportation Infrastructure Account--State Appropriation \$7,000,000

The appropriation in this section is subject to the following conditions and limitations: The Palouse River and Coulee City (PCC) rail line system is made up of the CW, P&L and PV Hooper rail lines. The amount provided in this section is provided solely for grants to any intergovernmental entity or local rail district to which operating rights for the PCC rail line system are assigned, provided that the funds are used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2009.

Sec. 714. RCW 46.68.060 and 1969 c 99 s 11 are each amended to read as follows:

There is hereby created in the state treasury a fund to be known as the highway safety fund to the credit of which shall be deposited all moneys directed by law to be deposited therein. This fund shall be used for carrying out the provisions of law relating to driver licensing, driver improvement, financial responsibility, cost of furnishing abstracts of driving records and maintaining such case records, and to carry out the purposes set forth in RCW 43.59.010. During the 2005-2007 and 2007-2009 fiscal biennia, the legislature may transfer from the highway safety fund to the motor vehicle fund and the multimodal transportation account such amounts as reflect the excess fund balance of the highway safety fund.

2005-07 BIENNIUM

TRANSPORTATION AGENCIES--OPERATING

Sec. 801. 2006 c 53 s 2 (uncodified) is amended to read as follows:

FOR THE BOARD OF PILOTAGE COMMISSIONERS

Pilotage Account--State Appropriation ((~~\$1,017,000~~))
\$1,317,000

((The appropriation in this section is subject to the following conditions and limitations: \$500,000 of the appropriation is provided solely for stipends to trainees in the training program as set forth in rules adopted by the board.))

NEW SECTION. Sec. 802. A new section is added to 2005 c 313 (uncodified) to read as follows:

FOR THE DEPARTMENT OF LICENSING. The appropriations to the department of licensing in chapter 370, Laws of 2006 shall be expended for the programs and in the amounts specified herein. However, after May 1, 2007, unless specifically prohibited, the department may transfer motor vehicle account--state appropriations for the 2005-2007 fiscal biennium, highway safety account--state appropriations for the 2005-2007 fiscal biennium, and department of licensing services account--state appropriations for the 2005-2007 fiscal biennium between programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any allotment modifications or transfers under this section.

NEW SECTION. Sec. 803. A new section is added to 2005 c 313 (uncodified) to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION. (1) The appropriations to the department of transportation in this act shall be expended for the programs and in the amounts specified in this act. However, in order to meet extraordinary ferry operating labor expenses, after May 1, 2007, unless specifically prohibited by this act, the department may transfer state appropriations among operating programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose.

(2) The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of financial management shall notify the appropriate transportation committees of the legislature in writing seven days prior to approving any allotment modifications or transfers under this subsection. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by program and appropriation, both before and after any allotment modifications or transfers.

Sec. 804. 2006 c 370 s 205 (uncodified) is amended to read as follows:

FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account--State Appropriation \$1,679,000

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) \$200,000 of the total appropriation is provided solely for the joint transportation committee to conduct a finance study of the Washington state ferry system. The purpose of the study is to facilitate policy discussions and decisions by members of the legislature regarding the Washington state ferry system. The legislature recognizes there is a need within the Washington state ferry system for predictable cash flows, transparency, assessment of organizational structure, verification that the Washington state ferry system is operating at maximum efficiency, and better labor relations. The committee shall report the study to the house of representatives and senate transportation committees by January 1, 2007.

(b) The study must include, at a minimum, a review and evaluation of the ferry system's financial plan, including current assumptions and past studies, in the following areas:

(i) Operating program, including ridership, revenue, and cost forecasts and the accuracy of those forecasts; and

(ii) Capital program, including project scoping, prioritization and cost estimating, project changes including legislative input regarding significant project changes, and performance measures.

(c) In addition to committee members, or their designees, the governor shall appoint a representative for this study. The committee may retain consulting services to assist the committee in conducting the study, including the evaluation of financial, operating, and capital plans. The committee may also appoint other persons to assist with the study.

(2) The joint transportation committee shall conduct a study regarding the feasibility of a statewide uniform motor vehicle excise tax (MVET) depreciation schedule. In addition to committee members, the participants in the study must include at a minimum the following individuals: (a) A representative of a regional transit authority (Sound Transit); (b) a representative of a regional transportation planning organization; (c) the secretary of transportation, or his or her designee; (d) a representative of the attorney general's office; (e) a representative of the department of licensing; and (f) a representative of the financial community. The purpose of the study is to develop an MVET depreciation schedule that more accurately reflects vehicle value but does not hinder outstanding contractual obligations.

(3) Funds provided in this section are sufficient for the committee to administer a study of the most reliable and cost-effective means of providing passenger-only ferry service.

(a) The study shall be guided by a 18 member task force consisting of the chairs and ranking members of the house of representatives and senate transportation committees, a designee of the director of the office of financial management, a member of the transportation commission, a designee of the secretary of transportation, a representative of organized labor, and ten stakeholders to be appointed by the governor as follows: Six representatives of ferry user communities, two representatives of public transportation agencies, and two representatives of commercial ferry operators.

(b) The study shall examine issues including but not limited to the long-term viability of different service providers, cost to ferry passengers, the state subsidies required by each provider, and the availability of federal funding for the different service providers.

(c) By November 30, 2005, the task force shall make its recommendations to the house of representatives and senate transportation committees.

~~(4) (\$450,000 of the motor vehicle account--state appropriation is provided solely to administer a consultant study of the long-term viability of the state's transportation financing methods and sources.~~

~~---(a) At a minimum, the study must examine the following: (i) The short and long-term viability of the motor fuel tax (both state and federal) as a major source of funding for transportation projects and programs; (ii) the desirability and effectiveness of state-distributed transportation funds for the benefit of local units of government; (iii) the potential for alternative and/or emerging sources of transportation revenues, with particular emphasis on user-based fees and charges; and (iv) trends and implications of debt financing for transportation projects. The scope of work for the study may be expanded to include analysis of other financing issues relevant to the long-term viability of the state's transportation system.~~

~~---(b) The findings and recommendations must be submitted to the fiscal committees of the legislature by November 1, 2006.~~

~~---(5)) \$75,000 of the motor vehicle account--state appropriation is provided solely for the joint transportation committee to contract for a review of existing research on programs and policies which decrease accidents by teenage drivers, including but not limited to publicly operated driver education and intermediate drivers licensing programs. The institute shall also evaluate the costs and benefits of programs and policies showing the greatest positive impact on teenage driving safety.~~

~~((6)) (5) The committee shall conduct an evaluation of the department of transportation surface transportation program enhancement grant program. The evaluation will include (a) information about the categories of projects submitted for consideration; (b) a review of the allocation of funds awarded across the categories of STP enhancement eligible activities; (c) a review of the criteria used to score projects; and (d) a finding by the committee whether certain categories of projects are disproportionately funded or unfunded.~~

Sec. 805. 2006 c 370 s 208 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU

State Patrol Highway Account--State Appropriation	(\$201,063,000)
	<u>\$198,984,000</u>
State Patrol Highway Account--Federal Appropriation	\$10,544,000
State Patrol Highway Account--Private/Local Appropriation	\$169,000
TOTAL APPROPRIATION	(\$211,776,000)
	<u>\$209,697,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol. The patrol shall report to the house of representatives and senate transportation committees by December 31, 2005, on the use of agency vehicles by officers engaging in the off-duty employment specified in this subsection. The report shall include an analysis that compares cost reimbursement and cost-impacts, including increased vehicle mileage, maintenance costs, and indirect impacts, associated with the private use of patrol vehicles.

(2) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account under RCW 43.79.470 no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund--state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(3) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the transportation committees of the senate and house of representatives by December 31st of each year.

(4) The state patrol highway account--state appropriation for DUI reimbursements shall only be spent for pursuit vehicle video cameras, datamaster DUI testing equipment, tire deflator equipment, and taser guns. The Washington state patrol prior to the issuance of any taser guns will train the troopers on using the equipment. The agency will provide a report to the transportation committees of the senate and house of representatives by December 31st of each year on the occurrences where the taser guns were utilized along with any issues that have been identified.

(5) \$29,000 of the state patrol highway account--state appropriation is provided solely for the implementation of House Bill No. 1469. If House Bill No. 1469 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6) \$5,580,000 of the total appropriation is provided solely for a 3.8% salary increase for commissioned officers effective July 1, 2005, in addition to any other salary increases provided for in this act.

(7) The Washington state patrol is authorized to use certificates of participation to fund the King Air aircraft replacement over a term of not more than ten years and an amount not to exceed \$1,900,000.

(8)(a) \$834,000 of the state patrol highway account--state appropriation is provided solely for the collective bargaining agreement reached between the governor and the Washington state patrol troopers association under chapter 438, Laws of 2005. For commissioned troopers and sergeants covered under this section, funding is provided for a 2.6% salary increase effective July 1, 2006. This increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Provisions of the collective bargaining agreement contained in this subsection are described in general terms. Only major economic terms are included in this description. This description does not contain the complete contents of the agreement. Due to the timing challenges in negotiating the initial collective bargaining agreement under chapter 438, Laws of 2005, this agreement was not concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

(b) \$62,000 of the state patrol highway account--state appropriation is provided solely for salary increases for commissioned captains and lieutenants covered under this section, if a new collective bargaining agreement is reached between the governor and the Washington state patrol lieutenants association by July 1, 2006. The amount provided in this subsection is contingent on an agreement being reached by July 1, 2006, and shall be held in reserve status until the agreement is reached. If an agreement is not reached by July 1, 2006, the amount provided in this subsection shall lapse. If an agreement is reached by July 1, 2006, the increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Due to the timing challenges in negotiating a collective bargaining agreement funded under this subsection, the agreement will not have been concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

(9) The Washington state patrol, in consultation with the department of licensing, local law enforcement agencies, and other appropriate organizations, shall study the options for implementing an inspection program for tow truck operators that are not licensed as registered tow truck operators. This study shall also evaluate prospective sources of funding and the amount of funding necessary for the program. The Washington state patrol shall report to the transportation committees of the legislature by December 1, 2006, on the options, strategies, and recommendations for implementing an inspection program for tow truck operators that are not licensed as registered tow truck operators.

(10) \$2,040,000 of the state patrol highway account--state appropriation is provided solely for eighteen additional commissioned officers in the vessel and terminal security division.

(11) The office of financial management shall conduct a review of the state patrol highway account and report its findings to the legislature by January 1, 2007.

Sec. 806. 2006 c 370 s 209 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU

State Patrol Highway Account--State Appropriation	((\$1,358,000))
	<u>\$1,025,000</u>

Sec. 807. 2006 c 370 s 210 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU

State Patrol Highway Account--State Appropriation	((\$91,359,000))
	<u>\$93,280,000</u>

State Patrol Highway Account--Private/Local Appropriation	\$2,008,000
TOTAL APPROPRIATION	<u>(\$93,367,000)</u>
	<u>\$95,288,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$247,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Second Substitute House Bill No. 1188. If Second Substitute House Bill No. 1188 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.
- (2) The Washington state patrol is instructed to work with the risk management division in the office of financial management in compiling the state patrol data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the transportation committees of the senate and house of representatives by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.
- (3) \$8,678,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.
- (4) \$5,254,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.
- (5) \$384,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the patrol.
- (6)(a) \$28,000 of the state patrol highway account--state appropriation is provided solely for the collective bargaining agreement reached between the governor and the Washington state patrol troopers association under chapter 438, Laws of 2005. For commissioned troopers and sergeants covered under this section, funding is provided for a 2.6% salary increase effective July 1, 2006. This increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Provisions of the collective bargaining agreement contained in this subsection are described in general terms. Only major economic terms are included in this description. This description does not contain the complete contents of the agreement. Due to the timing challenges in negotiating the initial collective bargaining agreement under chapter 438, Laws of 2005, this agreement was not concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.
- (b) \$2,000 of the state patrol highway account--state appropriation is provided solely for salary increases for commissioned captains and lieutenants covered under this section, if a new collective bargaining agreement is reached between the governor and the Washington state patrol lieutenants association by July 1, 2006. The amount provided in this subsection is contingent on an agreement being reached by July 1, 2006, and shall be held in reserve status until the agreement is reached. If an agreement is not reached by July 1, 2006, the amount provided in this subsection shall lapse. If an agreement is reached by July 1, 2006, the increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Due to the timing challenges in negotiating a collective bargaining agreement funded under this subsection, the agreement will not have been concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

Sec. 808. 2006 c 370 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B

Tacoma Narrows Toll Bridge Account--State Appropriation	<u>(\$8,294,000)</u>
	<u>\$5,288,000</u>

Sec. 809. 2006 c 370 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F

Aeronautics Account--State Appropriation	<u>(\$7,137,000)</u>
	<u>\$6,925,000</u>
Aeronautics Account--Federal Appropriation	\$2,150,000
Multimodal Transportation Account--State Appropriation	\$100,000
Multimodal Transportation Account--Federal Appropriation	\$900,000
TOTAL APPROPRIATION	<u>(\$10,287,000)</u>
	<u>\$10,075,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1)(a) \$433,000 of the aeronautics account--state appropriation is provided solely for airport pavement projects. The department's aviation division shall complete a priority airport pavement project list by January 1, 2006, to be considered by the legislature in the 2006 supplemental budget. If Substitute Senate Bill No. 5414 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.
- (b) If Substitute Senate Bill No. 5414 is enacted by July 1, 2005, then the remaining unexpended fund balance in the aircraft search and rescue, safety, and education account shall be deposited into the state aeronautics account.
- (2) The entire multimodal transportation account--state and federal appropriations are provided solely for implementing Engrossed Substitute Senate Bill No. 5121. If Engrossed Substitute Senate Bill No. 5121 is not enacted by June 30, 2005, or if federal funds are not received by March 1, 2006, for the purpose of implementing Engrossed Substitute Senate Bill No. 5121, the amount provided in this subsection shall lapse.

Sec. 810. 2006 c 370 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M

Motor Vehicle Account--State Appropriation	<u>(\$299,720,000)</u>
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	<u>\$300,920,000</u>
Motor Vehicle Account--Federal Appropriation	((\$1,426,000))
	<u>\$3,926,000</u>
Motor Vehicle Account--Private/Local Appropriation	\$4,315,000
TOTAL APPROPRIATION	((\$305,461,000))
	<u>\$309,161,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account--state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account--private/local appropriation.

(4) Funding is provided for maintenance on the state system to allow for a continuation of the level of service targets included in the 2003-05 biennium. In delivering the program, the department should concentrate on the following areas:

(a) Meeting or exceeding the target for structural bridge repair on a statewide basis;

(b) Eliminating the number of activities delivered in the "f" level of service at the region level;

(c) Reducing the number of activities delivered in the "d" level of service by increasing the resources directed to those activities on a statewide and region basis; and

(d) Evaluating, analyzing, and potentially redistributing resources within and among regions to provide greater consistency in delivering the program statewide and in achieving overall level of service targets.

(5) The department shall develop and implement a plan to improve work zone safety on a statewide basis. As part of the strategy included in the plan, the department shall fund equipment purchases using a portion of the money from the annual OTEF equipment purchasing and replacement process. The department shall also identify and evaluate statewide equipment needs (such as work zone safety equipment) and prioritize any such needs on a statewide basis. Substitute purchasing at the statewide level, when appropriate, shall be utilized to meet those identified needs. The department must report to the transportation committees of the legislature by December 1, 2005, on the plan, and by December 1, 2006, on the status of implementing the plan.

Sec. 811. 2006 c 370 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T

Motor Vehicle Account--State Appropriation	((\$24,052,000))
	<u>\$23,053,000</u>
Motor Vehicle Account--Federal Appropriation	\$16,756,000
Multimodal Transportation Account--State Appropriation	\$2,279,000
Multimodal Transportation Account--Federal Appropriation	\$2,829,000
Multimodal Transportation Account--Private/Local Appropriation	\$100,000
Transportation Partnership Account--State Appropriation	\$2,300,000
TOTAL APPROPRIATION	((\$48,316,000))
	<u>\$47,317,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) In order to qualify for state planning funds available to regional transportation planning organizations under this section, a regional transportation planning organization containing any county with a population in excess of one million shall provide voting membership on its executive board to any incorporated principal city of a metropolitan statistical area within the region, as designated by the United States census bureau, and to any incorporated city within the region with a population in excess of eighty thousand as of July 1, 2005. Additionally, a regional transportation planning organization described under this subsection shall conduct a review of its executive board membership criteria to ensure that the criteria appropriately reflects a true and comprehensive representation of the organization's jurisdictions of significance within the region.

(2) \$175,000 of the motor vehicle account--state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department to support the processing and analysis of the backlog of city and county collision reports by January 2006. The amount provided in this subsection shall lapse if federal funds become available for this purpose.

(3) \$150,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1565. If Engrossed Second Substitute House Bill No. 1565 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(4) The department of transportation shall evaluate the number of spaces available for long-haul truck parking relative to current and projected future needs. The department of transportation shall also explore options for augmenting the number of spaces available, including, but not limited to, expanding state-owned rest areas or modifying regulations governing the use of these facilities, utilizing weigh stations and park and ride lots, and encouraging the expansion of the private sector's role. Finally, the department shall explore the utility of coordinating

with neighboring states on long-haul truck parking and evaluate methodologies for alleviating any air quality issues relative to the issue. The department must report to the transportation committees of the legislature by December 1, 2005, on the options, strategies, and recommendations for long-haul truck parking.

(5) \$50,000 of the multimodal transportation account--state appropriation is provided solely for evaluating high-speed passenger transportation facilities and services, including rail or magnetic levitation transportation systems, to connect airports as a means to more efficiently utilize airport capacity, as well as connect major population and activity centers. This evaluation shall be coordinated with the airport capacity and facilities market analysis conducted pursuant to Engrossed Substitute Senate Bill No. 5121 and results of the evaluation shall be submitted by July 1, 2007. If Engrossed Substitute Senate Bill No. 5121 is not enacted by June 30, 2005, or if federal funds are not received by March 1, 2006, for the purpose of implementing Engrossed Substitute Senate Bill No. 5121, the amount provided in this subsection shall lapse.

(6) \$440,000 of the motor vehicle account--state appropriation is provided solely for completing funding for a route development plan of U.S. route 2.

(7) The department shall conduct a study of the resources allocated to each of the seven department regions and the corresponding workloads. Given the magnitude of the investments in the Puget Sound region, particular emphasis shall be given to reviewing the resources allocated and corresponding workloads with respect to the urban corridors region and the northwest region. Based on the results of this study, the department shall submit recommendations by December 1, 2006, to the legislature and the office of financial management regarding reallocating resources and revising regional boundaries within the department, as appropriate, in order to better coincide allocated resources with designated regional boundaries.

(8) \$750,000 of the multimodal transportation account--state appropriation is provided solely for implementing Engrossed Substitute House Bill No. 2871. If Engrossed Substitute House Bill No. 2871 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse. The regional transportation commission's duties to develop, complete, and submit a governance proposal to the 2007 legislature are highly time sensitive. As a result, the legislature finds that competitive bidding is not cost-effective or appropriate for personal service contracts entered into by the commission, and that the director of the office of financial management should, by the director's authority under RCW 39.29.011(5), exempt any such personal service contract from the competitive bidding requirements of chapter 39.29 RCW.

(9) \$2,300,000 of the transportation partnership account--state appropriation is provided solely for the costs of the regional transportation investment district (RTID) and department of transportation project oversight. The department shall provide support from its urban corridors region to assist in preparing project costs, expenditure plans, and modeling. The department shall not deduct a management reserve, nor charge management or overhead fees. These funds are provided as a loan to the RTID and shall be repaid to the state motor vehicle account within one year following the certification of the election results related to the RTID.

(10) \$100,000 of the motor vehicle account--state appropriation is provided solely to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely to conduct an analysis of expanding the transportation concurrency requirements prescribed under the growth management act, chapter 36.70A RCW, to include development impacts on level of service standards applicable to state-owned transportation facilities, including state highways and state ferry routes. The objective of the analysis is to determine how to ensure that jurisdictional divisions do not defeat growth management act concurrency goals. The department shall convene a committee to oversee the analysis, with the committee comprised of, at a minimum, four members of the transportation committees of the legislature, four members of the appropriate land use committees of the legislature, and one member each from the association of Washington cities and the Washington state association of counties, or a designee thereof. The completed study, including recommendations, must be submitted to the appropriate standing committees of the legislature, and to the office of financial management, by December 1, 2006.

(11) The department of transportation, the Washington state economic revenue forecast council, and the office of financial management shall review and adopt a method of forecasting motor vehicle and special fuel prices, revenue, and the amount of consumption that has an increased rate of accuracy as compared to the existing method. The three agencies shall submit a report to the transportation committees of the legislature by December 1, 2006, outlining the methods researched and the criteria utilized to select and adopt the new fuel forecasting method.

(12) \$150,000 of the multimodal transportation account--state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

Sec. 812. 2006 c 370 s 225 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--CHARGES FROM OTHER AGENCIES--PROGRAM U

Motor Vehicle Account--State Appropriation	((\$46,874,000))
	<u>\$47,374,000</u>
Motor Vehicle Account--Federal Appropriation	\$400,000
TOTAL APPROPRIATION	((\$47,274,000))
	<u>\$47,774,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ((~~\$31,749,000~~)) \$32,209,000 of the motor vehicle fund--state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES \$1,667,000

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR	\$1,026,000
(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES	\$4,049,000
(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL	\$4,548,000
(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION	(\$31,749,000)
	<u>\$32,249,000</u>
(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE	\$1,717,000
(g) FOR ARCHIVES AND RECORDS MANAGEMENT	\$545,000
(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES	\$1,124,000
(i) FOR PAYMENT OF THE DEPARTMENT OF PERSONNEL HRMS PAYROLL SYSTEM	\$817,000
(j) FOR PAYMENT OF THE OFFICE OF FINANCIAL MANAGEMENT ROADMAP CHARGES	\$12,000
(k) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT CAPITAL BUDGET SYSTEM CHARGES	\$15,000
(l) FOR PAYMENT OF DEPARTMENT OF INFORMATION SERVICES RATE INCREASES	\$5,000

Sec. 813. 2006 c 370 s 226 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM V

Multimodal Transportation Account--State Appropriation	(\$87,233,000)
	<u>\$70,005,000</u>
Multimodal Transportation Account--Federal Appropriation	\$2,603,000
Multimodal Transportation Account--Private/Local Appropriation	\$155,000
TOTAL APPROPRIATION	(\$89,991,000)
	<u>\$72,763,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2003 as reported in the "Summary of Public Transportation - 2003" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions. The first \$450,000 provided to King county shall be used as follows:

(i) \$320,000 shall be used to provide electric buses, instead of diesel buses, for service on Capital Hill in Seattle, Washington through June 30, 2007;

(ii) \$130,000 shall be used to provide training for blind individuals traveling through Rainier Valley and the greater Seattle area. The training is to include destination training and retraining due to the expected closure of the downtown bus tunnel and training on how to use the Sound Transit light rail system.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$7,000,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2003 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$7,000,000 of the multimodal transportation account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3) \$8,900,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. No additional employees may be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. Additional criteria for selecting grants must include leveraging funds other than state funds.

(4) \$3,000,000 of the multimodal transportation account--state appropriation is provided solely for the city of Seattle for the Seattle streetcar project on South Lake Union.

(5) \$1,200,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 2124. If Engrossed Substitute House Bill No. 2124 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6)(a) ~~(\$20,000,000)~~ \$2,832,000 of the multimodal transportation account--state appropriation is provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2006-D, Regional Mobility Grant Program Projects as developed March 8, 2006. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower

than estimated in the grant award. When funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout, the department shall expeditiously extend new grant awards to qualified alternative projects identified on the list.

(b) Pursuant to the grant program established in RCW 47.66.030, the department shall issue a call for projects and/or service proposals. Applications must be received by the department by November 1, 2005, and November 1, 2006. The department must submit a prioritized list for funding to the transportation committees of the legislature that reflects the department's recommendation, as well as, a list of all project or service proposals received.

(7) \$2,000,000 of the multimodal transportation account--state appropriation is provided solely for new tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(8) \$2,000,000 of the multimodal transportation account--state appropriation is provided solely to King county as a state match to obtain federal funding for a car sharing program for persons meeting certain income or employment criteria.

(9) \$750,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of the local government and regional transportation planning requirements in Engrossed Substitute Senate Bill No. 6566 (commute trip reduction). The department may use contract or temporary employees to implement the bill and shall allocate the remaining funds to regional transportation planning organizations, counties, and cities on an as needed basis. If Engrossed Substitute Senate Bill No. 6566 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(10) ~~(\$200,000)~~ \$140,000 of the multimodal account appropriation is provided solely for up to three low-income car ownership programs. The department shall seek to leverage available federal funds from the job access and reverse commute program to augment the funding provided in this subsection. Additionally, the department shall report back to the appropriate committees of the legislature with a review of the obstacles presented by state laws on surplus property disposal to community organizations reconditioning cars and selling those cars at below market rates to low-income families.

Sec. 814. 2006 c 370 s 227 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X

Puget Sound Ferry Operations Account--State Appropriation	((\$372,254,000))
	<u>\$389,249,000</u>
Multimodal Transportation Account--State Appropriation	\$3,660,000
TOTAL APPROPRIATION	((\$375,914,000))
	<u>\$392,909,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$75,280,000)~~ \$81,664,000 of the total appropriation is provided solely for auto ferry vessel operating fuel in the 2005-2007 biennium.

(2) The maximum amount of expenditures for compensation paid to ferry employees during the 2005-2007 biennium shall not exceed ~~(\$226,455,000)~~ \$236,085,000. This amount reflects the sole source of state funding available to support the implementation of any collective bargaining agreements or arbitration awards with respect to state ferry employee compensation, including salaries, wages, and employee benefits, during the 2005-2007 biennium, which amount includes \$6,223,000 in full satisfaction of the arbitration awards for the 2001-2003 biennium and \$1,339,000 for labor productivity gains agreements and \$8,870,000 in full satisfaction of the arbitration awards and the negotiated collective bargaining agreements for the 2003-2005 and 2005-2007 biennia. The department's use of this expenditure authority constitutes a good faith attempt to implement such agreements and awards, including those applicable to prior biennia. It is the intent of the legislature that the expenditure authority provided in this subsection fully satisfy any agreements or awards required to be implemented during the 2005-2007 biennium, and that the provisions of Substitute House Bill No. 3178 (marine employees collective bargaining) will govern the implementation of agreements or awards effective beginning with the 2007-2009 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's state administrative and accounting manual, chapter 75.70, named under objects of expenditure "A" and "B".

(3) \$1,116,000 of the Puget Sound ferry operations account--state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery.

(4) The Washington state ferries must work with the department's information technology division to implement an electronic fare system, including the integration of the regional fare coordination system (smart card). Each December and June, semi-annual updates must be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

(5) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

(6) \$3,660,000 of the multimodal transportation account--state appropriation is provided solely to provide passenger-only ferry service. The ferry system shall continue passenger-only ferry service from Vashon Island to Seattle until such time as a county ferry district's assumption of the route, as authorized by Substitute Senate Bill No. 6787. Beginning September 1, 2005, ferry system management shall implement its agreement with the Inlandboatmen's Union of the Pacific and the International Organization of Masters, Mates and Pilots providing for part-time passenger-only work schedules.

(7) \$350,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the implementation of Substitute House Bill No. 3178 (marine employees collective bargaining). If Substitute House Bill No. 3178 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(8) \$613,000 of the Puget Sound ferries operations account--state appropriation is provided solely for compliance with department of ecology rules regarding the transfer of oil on or near state waters.

Sec. 815. 2006 c 370 s 228 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING

Multimodal Transportation Account--State Appropriation	((\$36,876,000))
	<u>\$35,376,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) \$29,091,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(b) The department shall negotiate with Amtrak and Burlington Northern Santa Fe to adjust the Amtrak Cascades schedule to leave Bellingham at a significantly earlier hour.

(2) ((~~\$2,750,000~~)) \$1,500,000 of the multimodal transportation account--state appropriation is provided solely for a new round trip rail service between Seattle and Portland beginning July 1, 2006.

(3) No AMTRAK Cascade runs may be eliminated.

(4) \$40,000 of the multimodal transportation account--state appropriation is provided solely for the produce railcar program. The department is encouraged to implement the produce railcar program by maximizing private investment.

(5) \$500,000 of the multimodal transportation account--state appropriation is provided solely for a study of the realignment of highway and rail in the Longview industrial area (SR 432) corridor, specifically regarding whether the construction of a limited access bypass highway to reduce congestion resulting from anticipated growth in future rail and truck traffic, is a feasible alternative. In conducting the study, the department shall consult port districts, local government planning staff, and rail road companies, and other appropriate stakeholders.

(6) \$60,000 of the multimodal transportation account--state appropriation is provided solely for a study of the need for transloading capabilities in the West Plains area that could be served by the Geiger Spur, including evaluation of prospective transloader sites, potential operators and users, and the type, size, and special needs of shippers/customers. The study must also evaluate the costs associated with building and operating a transloader site and the impact to local roadways and surrounding land uses. In conducting the study, the department shall consult with Spokane County.

Sec. 816. 2006 c 370 s 229 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--OPERATING

Motor Vehicle Account--State Appropriation	((\$8,500,000))
	<u>\$8,836,000</u>
Motor Vehicle Account--Federal Appropriation	\$2,597,000
Multimodal Transportation Account--State Appropriation	((\$411,000))
	<u>\$200,000</u>
TOTAL APPROPRIATION	((\$11,508,000))
	<u>\$11,633,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$211,000 of the motor vehicle account--state appropriation and ((~~\$411,000~~)) \$200,000 of the multimodal transportation account--state appropriation are provided solely for the state's contribution to county and city studies of flood hazards in association with interstate highways. First priority shall be given to threats along the I-5 corridor.

(2) ((~~\$525,000~~)) \$861,000 of the motor vehicle account--state appropriation is provided solely to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely for contract services with the association of Washington cities and the Washington state association of counties for improving transportation permitting and mitigation processes.

TRANSPORTATION AGENCIES--CAPITAL

Sec. 901. 2006 c 370 s 301 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account--State Appropriation	((\$64,933,000))
	<u>\$38,046,000</u>
Motor Vehicle Account--State Appropriation	\$355,000
County Arterial Preservation Account--State Appropriation	((\$32,697,000))
	<u>\$31,882,000</u>
TOTAL APPROPRIATION	((\$97,985,000))
	<u>\$70,283,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$355,000 of the motor vehicle account--state appropriation is provided for county ferries as set forth in RCW 47.56.725(4).

Sec. 902. 2006 c 370 s 302 (uncodified) is amended to read as follows:

TRANSPORTATION IMPROVEMENT BOARD FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account--State Appropriation	((\$101,425,000))
	<u>\$93,425,000</u>
Small City Preservation and Sidewalk Account--State Appropriation	((\$2,000,000))
	<u>\$1,696,000</u>
Transportation Improvement Account--State Appropriation	((\$94,401,000))
	<u>\$82,258,000</u>
TOTAL APPROPRIATION	((\$197,826,000))
	<u>\$177,379,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) The transportation improvement account--state appropriation includes up to ((~~\$14,143,000~~)) \$7,000,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.
- (2) ((~~\$2,000,000~~)) \$1,696,000 of the small city preservation and sidewalk account--state appropriation is provided to fund the provisions of chapter 83, Laws of 2005 (Substitute Senate Bill No. 5775).

Sec. 903. 2006 c 370 s 303 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL

Motor Vehicle Account--State Appropriation	((\$2,328,000))
	<u>\$1,911,000</u>

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$584,000 of the motor vehicle account--state appropriation is provided solely for statewide administration.
 - (2) ((~~\$632,000~~)) \$561,000 of the motor vehicle account--state appropriation is provided solely for regional minor projects.
 - (3) ((~~\$305,000~~)) \$40,000 of the motor vehicle account--state appropriation is provided solely for designing the replacement of the existing outdated maintenance facility in Ephrata.
 - (4) ((~~\$239,000~~)) \$158,000 of the motor vehicle account--state appropriation is provided solely for the designing of the northwest regional maintenance complex in Seattle.
 - (5) \$568,000 of the motor vehicle account--state appropriation is provided solely for the Olympic region headquarters project.
- ((a) The department of transportation is authorized to use certificates of participation for the financing of the Olympic region project in the amount of \$34,874,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW.
- (b) The Washington state department of transportation may utilize the design-build process in accordance with chapter 39.10 RCW for the Olympic region project. If the design-build process is used, it may be developed in partnership with the department of general administration.))

Sec. 904. 2006 c 370 s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL

Motor Vehicle Account--State Appropriation	((\$17,555,000))
	<u>\$11,162,000</u>
Motor Vehicle Account--Federal Appropriation	((\$15,068,000))
	<u>\$10,308,000</u>
Motor Vehicle Account--Local Appropriation	((\$108,000))
	<u>\$50,000</u>
TOTAL APPROPRIATION	((\$32,731,000))
	<u>\$21,520,000</u>

The appropriations in this section are subject to the following conditions and limitations: The motor vehicle account--state appropriation includes ((~~\$11,255,000~~)) \$11,162,000 for state matching funds for federally selected competitive grant or congressional earmark projects other than the commercial vehicle information systems and network. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

Sec. 905. 2006 c 370 s 304 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I

Transportation 2003 Account (Nickel Account)--State Appropriation	((\$1,190,511,000))
	<u>\$1,079,697,000</u>
Motor Vehicle Account--State Appropriation	((\$85,165,000))
	<u>\$84,385,000</u>
Motor Vehicle Account--Federal Appropriation	((\$395,043,000))
	<u>\$352,856,000</u>
Motor Vehicle Account--Private/Local Appropriation	((\$58,522,000))

	<u>\$47,655,000</u>
Special Category C Account--State Appropriation	((<u>\$3,479,000</u>))
	<u>\$3,152,000</u>
Tacoma Narrows Toll Bridge Account Appropriation	\$274,038,000
Transportation Partnership Account--State Appropriation	((<u>\$384,186,000</u>))
	<u>\$289,436,000</u>
Multimodal Transportation Account--State Appropriation	((<u>\$1,002,000</u>))
	<u>\$750,000</u>
TOTAL APPROPRIATION	((<u>\$2,391,946,000</u>))
	<u>\$2,131,969,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by ((~~fund,~~) project ((~~and amount~~)) in LEAP Transportation Document 2006-1, Highway Improvement Program (I) as developed March 8, 2006. ((~~However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.~~))

(b) Within the amounts provided in this subsection, \$6,835,000 of the transportation partnership account--state appropriation, \$5,002,000 of the transportation 2003 account (nickel account)--state appropriation, and \$2,645,000 of the motor vehicle account--federal appropriation are for project 109040T: I-90/Seattle to Mercer Island - Two way transit/HOV. Expenditure of these funds on construction is contingent upon the development of an access plan that provides equitable and dependable access for I-90 Mercer Island exit and entry.

(c) Within the amounts provided in this subsection, \$500,000 of the transportation partnership account--state appropriation is for a west Olympia access study, to complete an access study for state route 101/west Olympia.

(d) Within the amounts provided in this subsection, \$800,000 of the transportation partnership account--state appropriation is for an SR 534 access point decision report.

(f) Within the amounts provided within this subsection, \$6,000,000 of the transportation partnership account--state appropriation is for project 509009B: I-90 Snoqualmie Pass East - Hyak to Keechelus dam. However, if the preferred alternative selected for this project results in a lower total project cost, the remaining funds may be used for concrete rehabilitation on I-90 in the vicinity of this project.

(g) Within the amounts provided in this subsection, \$12,841,000 of the transportation 2003 account (nickel account)--state appropriation and \$4,939,000 of the transportation partnership account--state appropriation are for construction of a new interchange on SR 522 to provide direct access to the University of Washington Bothell/Cascadia community college joint campus. This appropriation assumes an additional \$8,061,000 will be provided in the 2007-09 biennium from the transportation partnership account.

(h) Within the amounts provided in this subsection, \$19,262,149 of the motor vehicle account--federal appropriation and \$1,873,478 of the transportation 2003 account (nickel account) appropriation are for project 154302E: SR 543 (I-5 to the international boundary).

(2) The motor vehicle account--state appropriation includes up to \$50,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.

(3) The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

(4) The transportation partnership account--state appropriation includes up to \$150,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(5) The Tacoma Narrows toll bridge account--state appropriation includes up to \$257,016,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The Tacoma Narrows toll bridge account-- state appropriation includes up to \$17,022,000 in unexpended proceeds from the March 2005 bond sale authorized in RCW 47.10.843 for the Tacoma Narrows bridge project.

(6) The transportation 2003 account (nickel account)--state appropriation includes up to \$880,000,000 in proceeds from the sale of bonds authorized by chapter 147, Laws of 2003.

(7) The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(8) The department of transportation shall conduct an analysis of the causes of traffic congestion on I-5 in the vicinity of Fort Lewis and develop recommendations for alleviating the congestion. The department must report to the transportation committees of the legislature by December 1, 2005, on its analysis and recommendations regarding traffic congestion on I-5 in the vicinity of Fort Lewis.

(9) The department of transportation is authorized to proceed with the SR 519 Intermodal Access project if the city of Seattle has not agreed to a project configuration or design by July 1, 2006.

(10) The motor vehicle account--state appropriation includes up to \$14,214,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.843.

(11) The special category C account--state appropriation includes up to \$1,710,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.812.

(12) The department should consider using mitigation banking on appropriate projects whenever possible, without increasing the cost to projects. The department should consider using the advanced environmental mitigation revolving account (AEMRA) for corridor and watershed based mitigation opportunities, in addition to project specific mitigation.

(13) \$500,000 of the motor vehicle account--state appropriation is provided solely for a planning study regarding congestion mitigation improvements on state route 101 in the vicinity of the city of Aberdeen.

(14) \$6,200,000 of the motor vehicle account--federal appropriation is provided solely for eastern Washington international border crossing and freight mobility projects, including pavement preservation, pavement structural strengthening, and other safety enhancements. Projects shall include funding for U.S. route 97 international border vicinity paving and improvement projects.

(15) \$3,509,738 of the motor vehicle account--federal appropriation and \$30,793 of the motor vehicle account--state appropriation are provided solely for project 100598C: I-5 Blaine Exit interchange improvements.

~~((17))~~ (16) The legislature recognizes that the finance and project implementation planning processes required for the Alaskan Way viaduct and Seattle Seawall replacement project and the SR 520 bridge replacement and HOV project cannot guarantee appropriate decisions unless key study assumptions are reasonable with respect to each project.

To assure appropriate finance plan and project implementation plan assumptions, an expert review panel shall be appointed to provide independent financial and technical review for development of a finance plan and project implementation plan for the projects described in this subsection.

(a) The expert review panel shall consist of five to ten members who are recognized experts in relevant fields, such as planning, engineering, finance, law, the environment, emerging transportation technologies, geography, and economics.

(b) The expert review panel shall be selected cooperatively by the chairs of the senate and house transportation committees, the secretary of the department of transportation, and the governor to assure a balance of disciplines.

(c) The chair of the expert review panel shall be designated by the governor.

(d) The expert panel shall, with respect to completion of the project alternatives as described in the draft environmental impact statement of each project:

(i) Review the finance plan for the project to ensure that it clearly identifies secured and anticipated funding sources and is feasible and sufficient;

(ii) Review the project implementation plan covering all state and local permitting and mitigation approvals that ensure the most expeditious and cost-effective delivery of the project; and

(iii) Report its findings and recommendations on the items described in (d)(i) and (ii) of this subsection to the joint transportation committee, the office of financial management, and the governor no later than September 1, 2006.

(e) Upon receipt of the expert review panel's findings and recommendations under (d)(iii) of this subsection, the governor must make a finding of whether each finance plan is feasible and sufficient to complete the project as described in the draft environmental impact statement.

(f) Nothing in this section shall be interpreted to delay construction of any of the projects referenced in this subsection.

~~((18)(a) Prior to commencing construction on either project, the department of transportation must complete all of the following requirements for both the Alaskan Way viaduct and Seattle Seawall replacement project, and the state route number 520 bridge replacement and HOV project: (i) In accordance with the national environmental policy act, the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate review using the department's cost estimate validation process, for each project; (ii) in accordance with all applicable federal highway administration planning and project management requirements, the department must prepare a project finance plan for each project that clearly identifies secured and anticipated fund sources, cash flow timing requirements, and project staging and phasing plans if applicable; and (iii) the department must report these results for each project to the joint transportation committee.~~

~~(b) The requirements of this subsection shall not apply to (i) utility relocation work, and related activities, on the Alaskan Way viaduct and Seattle Seawall replacement project and (ii) off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.)~~

Sec. 906. 2006 c 370 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P

Transportation 2003 Account (Nickel Account)--State Appropriation	(((\$1,687,000))
	\$1,690,000
Motor Vehicle Account--State Appropriation	(((\$94,799,000))
	\$88,954,000
Motor Vehicle Account--Federal Appropriation	(((\$435,310,000))
	\$426,297,000
Motor Vehicle Account--Private/Local Appropriation	(((\$8,485,000))
	\$6,194,000
((Puyallup Tribal Settlement Account--State Appropriation \$11,000,000))
Transportation Partnership Account--State Appropriation	(((\$24,540,000))
	\$20,180,000
TOTAL APPROPRIATION	(((\$575,821,000))
	\$543,315,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by (~~fund;~~) project (~~and amount~~) in LEAP Transportation Document 2006-1, Highway Preservation Program (P) as developed March 8, 2006. (~~However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.~~)

(2) \$11,000,000 of the Puyallup tribal settlement account--state appropriation is provided solely for mitigation costs associated with the Murray Morgan/11th Street Bridge demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street Bridge to the city. The department may use the Puyallup tribal settlement account appropriation, as well as any funds appropriated in the current biennium and planned in future biennia for the demolition and mitigation for the demolition of the bridge to rehabilitate or replace the bridge, if agreed to by the city. In no event shall the department's participation exceed \$26,500,000 and no funds may be expended unless the city of Tacoma agrees to take ownership of the bridge in its entirety and provide that the payment of these funds extinguishes any real or implied agreements regarding future expenditures on the bridge.

(3) \$740,000 of the motor vehicle account--state appropriation, \$106,149,000 of the motor vehicle account--federal appropriation, and \$10,305,000 of the transportation partnership account--state appropriation are provided solely for the Hood Canal bridge project.

(4) The motor vehicle account--state appropriation includes up to \$735,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes.

(5) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(6) The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(7) The motor vehicle account--state appropriation includes up to \$912,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.843.

(8) The motor vehicle account--state appropriation includes up to \$6,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.

(9) (~~(\$4,000,000)~~) \$3,200,000 of the motor vehicle account--federal appropriation and \$6,000,000 of the motor vehicle account--state appropriation, as specified in subsection (8) of this section, are for expenditures on damaged state roads due to flooding, mudslides, rock fall, or other unforeseen events. Slide repair on state routes 101, 4, 107, and 105 must be funded from this amount if federal emergency funds are not available.

Sec. 907. 2006 c 370 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W	
Puget Sound Capital Construction Account--State Appropriation	((\$122,324,000)) <u>\$113,296,000</u>
Puget Sound Capital Construction Account--Federal Appropriation	((\$73,590,000)) <u>\$47,873,000</u>
Puget Sound Capital Construction Account--Private/Local Appropriation	\$26,000
Multimodal Transportation Account--State Appropriation	((\$13,249,000)) <u>\$10,749,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation	((\$34,991,000)) <u>\$17,391,000</u>
TOTAL APPROPRIATION	((\$244,180,000)) <u>\$189,335,000</u>

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel construction, major and minor vessel preservation, and terminal preservation, construction, and improvements. The appropriations in this section are subject to the following conditions and limitations:

(1) The Puget Sound capital construction account--state appropriation includes up to (~~(\$40,950,000)~~) \$40,288,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries.

(2) The multimodal transportation account--state appropriation includes up to (~~(\$10,249,000)~~) \$9,079,000 in proceeds from the sale of bonds authorized by RCW 47.10.867.

(3) \$15,617,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Eagle Harbor Terminal Preservation project.

(4) The entire transportation 2003 account (nickel account) appropriation and \$10,249,000 of the multimodal transportation account--state appropriation are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document 2006-1, Ferries Construction Program (W) as developed March 8, 2006. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(5) The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act and on any additional projects for which the

department has expended funds during the 2005-07 fiscal biennium. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

(6) \$3,000,000 of the multimodal transportation account--state appropriation is provided solely for passenger-only projects. Projects may include vessel or terminal projects or costs associated with selling vessels.

(7) The multimodal transportation account--state appropriation includes up to \$1,170,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.867.

Sec. 908. 2006 c 370 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL

((Essential Rail Assistance Account--State Appropriation	-\$250,000))
<u>Motor Vehicle Account--Federal Appropriation</u>	<u>\$1,485,000</u>
Multimodal Transportation Account--State Appropriation	(((\$68,176,000))
	<u>\$57,814,000</u>
Multimodal Transportation Account--Private/Local Appropriation	(((\$8,287,000))
	<u>\$551,000</u>
Multimodal Transportation Account--Federal Appropriation	(((\$17,268,000))
	<u>\$10,198,000</u>
TOTAL APPROPRIATION	(((\$93,981,000))
	<u>\$70,048,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The multimodal transportation account--state appropriation includes up to ~~(((\$33,435,000))~~ \$1,422,000 in proceeds from the sale of bonds ~~((and up to \$830,000 in unexpended bond proceeds authorized by RCW 47.10.867)).~~

(2) If federal block grant funding for freight or passenger rail is received, the department shall consult with the transportation committees of the legislature prior to spending the funds on additional projects.

(3)(a) ~~(((\$68,176,000))~~ \$56,399,000 of the multimodal transportation account--state appropriation, ~~(((\$17,268,000))~~ \$10,198,000 of the multimodal transportation account--federal appropriation, ~~(((\$8,287,000))~~ \$551,000 of the multimodal transportation account--local appropriation, and ~~(((\$250,000 of the essential rail assistance account))~~ \$1,485,000 of the motor vehicle account--federal appropriation are provided solely for the projects and activities as listed by ~~((fund,))~~ project ~~((and amount))~~ in LEAP Transportation Document 2006-C, Rail Capital Program (Y) as developed March 8, 2006. ~~((However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.))~~

(b) Within the amounts provided in this subsection, ~~(((\$6,500,000))~~ \$5,000,000 of the multimodal transportation account--state appropriation is for the ~~((two))~~ commuter rail project~~((s))~~ listed in the LEAP Transportation Document 2006-C, Rail Capital Program (Y) as developed March 8, 2006.

(c) Within the amounts provided in this subsection, \$10,937,000 of the multimodal transportation account--state appropriation is for the cost of the memorandum of understanding for the acquisition of the Palouse River Coulee City (PCC) rail lines.

(i) The office of financial management shall negotiate the purchase of the CW line. The purchase agreement must include both the operating and capital rights of the CW line. If the office of financial management is unable to negotiate the purchase of the CW line, the office may stop all negotiations and acquire the line and operational rights through any other alternative means available. The office of financial management shall also negotiate a new operational agreement for the line, in consultation with local governments and other stakeholders. The operational agreement shall be assignable, at the state's option, to any intergovernmental entity or local rail district that expresses interest in the operating rights to the line.

~~((((†)))~~ (ii) The office of financial management shall negotiate the purchase of the operating rights of the P&L and PV Hooper lines. If the office of financial management is unable to negotiate the purchase of the operating rights of the P&L and PV Hooper lines, the office may stop all negotiations and acquire the operating rights through any other alternative means available. Watco will continue to operate the PV Hooper line, as required by contract. The office of financial management shall also negotiate a new operational agreement~~((†))~~ for the P&L ~~((and PV Hooper lines))~~ line in consultation with local governments and other stakeholders. The operational agreement negotiated shall be assignable, at the state's option, to any intergovernmental entity or local rail district that expresses interest in the operating rights to the line. If, upon expiration of the operational agreement for the PV Hooper line, any intergovernmental entity or local rail district expresses interest in the operating rights to the PV Hooper rail line, then the department shall assign the operating rights to the line to the intergovernmental entity or local rail district.

~~((((†)))~~ (iii) In order to maintain the operation of the Palouse River & Coulee City rail lines, the office of financial management is authorized to negotiate an agreement wherein they may forgive all or part of the existing freight rail assistance loan to the current operator of the Palouse River & Coulee City rail lines in exchange for good and valuable consideration.

(iv) Following acquisition of the PCC rail lines, the department shall not expend funds provided in (a) of this subsection to refurbish the lines or provide an operating subsidy for the lines.

(4) If the department issues a call for projects, applications must be received by the department by November 1, 2005, and November 1, 2006.

(5) \$50,000 of the multimodal transportation account--state appropriation is provided solely for a study of eastern Skagit county freight rail. The study shall examine the feasibility of restoring portions of freight rail line to the towns of Lyman, Hamilton, and Concrete. The study

must also identify existing and potential industrial sites available for development and redevelopment, and the freight rail service needs of the identified industrial sites.

- (6) The department shall finalize and issue the Amtrak Cascades long range plan update as of the effective date of this act.
- (7) Funds provided for the Tacoma rail improvement project may be expended for preconstruction engineering.
- (8) \$2,500,000 of the multimodal transportation account--state appropriation is provided solely for a rail loop at the Port of Walla Walla.

Sec. 909. 2006 c 370 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--CAPITAL

((Highway Infrastructure Account--State Appropriation	\$207,000
Highway Infrastructure Account--Federal Appropriation	\$1,602,000)
Motor Vehicle Account--Federal Appropriation	(((\$48,998,000))
	<u>\$16,734,000</u>
Motor Vehicle Account--State Appropriation	(((\$8,340,000))
	<u>\$1,836,000</u>
Transportation Partnership Account--State Appropriation	(((\$2,008,000))
	<u>\$694,000</u>
((Freight Mobility Investment Account--State Appropriation	\$6,000,000
Passenger Ferry Account--State Appropriation	\$9,000,000)
Multimodal Transportation Account--State Appropriation	(((\$39,403,000))
	<u>\$21,860,000</u>
Transportation 2003 Account (nickel account)--State Appropriation	(((\$557,000))
	<u>\$145,000</u>
Freight Mobility Multimodal Account--State Appropriation	(((\$9,700,000))
	<u>\$1,150,000</u>
<u>Freight Mobility Multimodal Account--Private/Local Appropriation</u>	<u>\$3,050,000</u>
TOTAL APPROPRIATION	(((\$125,815,000))
	<u>\$45,469,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2006.

(2) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists distributed with this act, and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium, except for projects managed by the freight mobility strategic investment board. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(3) The multimodal transportation account--state appropriation includes up to \$6,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.867.

(4) \$1,545,000 of the multimodal transportation account--state appropriation is reappropriated and provided solely to fund the multiphase cooperative project with the state of Oregon to dredge the Columbia River. The amount provided in this subsection shall lapse unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

(5) Up to \$206,000 of the motor vehicle account--state appropriation is reappropriated and provided ~~((solely))~~ for additional traffic and pedestrian safety improvements near schools. The highways and local programs division within the department of transportation shall administer this program. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded traffic and pedestrian safety improvement grant funds, but does not report activity on the project within one year of grant award should be reviewed by the department to determine whether the grant should be terminated. The department must promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. The department shall expeditiously extend new grant awards to qualified projects when funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout.

(6) The motor vehicle account--state appropriation includes up to \$905,000 in unexpended proceeds from the sale of bonds authorized by RCW 47.10.843.

(7) Up to \$607,000 of the multimodal transportation account--state appropriation is reappropriated and provided ~~((solely))~~ to support the safe routes to school program.

(8) ~~(((\$16,110,000))~~ Up to \$7,488,000 of the motor vehicle account--federal appropriation is provided ~~((solely))~~ for the local freight capital projects in progress identified in this subsection. The specific funding listed is provided ~~((solely))~~ for the respective projects: SR 397

Ainsworth Ave. Grade Crossing, \$4,992,000; Colville Alternate Truck Route, \$1,746,000; (~~(S. 228th Street Extension and Grade Separation, \$6,500,000; Bigelow Gulch Road-Urban Boundary to Argonne Rd., \$2,000,000; Granite Falls Alternate Route, \$122,000;~~) and Pacific Hwy. E./Port of Tacoma Road to Alexander, \$750,000.

(9) (~~(\$2,898,000)~~) Up to \$1,011,000 of the motor vehicle account--state appropriation is provided (~~(solely)~~) for the local freight capital projects in progress identified in this subsection. The specific funding listed is provided (~~(solely)~~) for the respective projects: Duwamish Intelligent Transportation Systems (ITS), (~~(\$2,382,000)~~) \$495,000; Port of Kennewick/Piert Road, \$516,000.

(10) Up to \$6,000,000 of the multimodal account--state appropriation is provided (~~(solely)~~) for the local freight 'D' street grade separation project.

(11) The department shall issue a call for pedestrian safety projects, such as safe routes to schools and transit, and bicycle and pedestrian paths. Applications must be received by the department by November 1, 2005, and November 1, 2006. The department shall identify cost-effective projects, and submit a prioritized list to the legislature for funding by December 15th of each year. Recommendations made to the legislature for safe routes to schools and bicycle and pedestrian path projects must, to the extent practicable based on available funding, allocate sixty percent of available funds to bicycle and pedestrian path projects and forty percent to safe routes to schools. Preference shall be given to projects that provide a local match.

(12) (~~(\$18,370,000)~~) Up to \$12,000,000 of the multimodal transportation account--state appropriation, (~~(\$6,000,000)~~) up to \$2,440,000 of the freight mobility multimodal account--state appropriation, and up to \$2,008,000 of the transportation partnership account--state appropriation (~~(, and \$6,000,000 of the freight mobility investment account--state appropriation)~~) are provided (~~(solely)~~) for the projects and activities as listed by fund, project and amount in LEAP Transportation Document 2006-1, Local Programs (Z) as developed March 8, 2006. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(13) \$870,000 of the multimodal transportation account--state appropriation is provided solely for the Yakima Avenue, 9th Street to Front Street, pedestrian safety improvement project.

(14) Up to \$5,000,000 of the multimodal transportation account--state appropriation and up to \$2,000,000 of the motor vehicle account--federal appropriation are provided (~~(solely)~~) for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified on the LEAP Transportation Document 2006-B, Pedestrian and Bicycle Safety Program Projects and Safe Routes to Schools Program Projects as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. When funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout, the department shall expeditiously extend new grant awards to qualified alternative projects identified on the list.

(15) Up to \$9,700,000 of the motor vehicle account--federal appropriation is provided (~~(solely)~~) for the intersection and corridor safety program projects as identified on the LEAP Transportation Document 2006-A, Intersection and Corridor Safety Program Projects as developed March 8, 2006.

(16) Up to \$19,500,000 of the motor vehicle account--federal appropriation is provided (~~(solely)~~) for rural county two-lane roadway pilot projects including \$7,500,000 already under contract. Any further allocations shall be prioritized by the department based on high-accident-corridor criteria. For purposes of this subsection, "high-accident-corridor" means a highway corridor of one mile or more where analysis of collision history indicates that the section has higher than average collision and severity factors.

(17) Up to \$2,500,000 of the motor vehicle account--state appropriation is provided (~~(solely)~~) for the Yakima downtown futures initiative.

(18) Up to \$810,000 of the multimodal transportation account--state appropriation is provided (~~(solely)~~) for the projects identified in this subsection: Des Moines creek trail, \$250,000; SR 282 to Port of Ephrata connector, \$385,000; Mount Baker Ridge viewpoint, \$175,000.

(~~(20)~~) (19) Up to \$688,000 of the motor vehicle account--federal appropriation is provided (~~(solely)~~) for completion of the Coal Creek Parkway project.

(~~(21)~~) ~~\$9,000,000 of the passenger ferry account--state appropriation is provided solely for the implementation of the passenger-only ferry grant program created in Substitute Senate Bill No. 6787. If Substitute Senate Bill No. 6787 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.)~~

(20) \$827,000 of the motor vehicle account--federal appropriation is provided solely for the projects identified in this subsection: The Franklin county slide project, \$800,000; and the Loomis-Oroville Road guardrail replacement project, \$27,000.

(21) \$252,000 of the multimodal transportation account--state appropriation is provided solely for the Winthrop pedestrian and bike path project.

TRANSFERS AND DISTRIBUTIONS

Sec. 1001. 2006 c 370 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	((\$334,313,000))
	<u>\$329,713,000</u>
Nondebt-Limit Reimbursable Account Appropriation	((\$6,091,000))

	<u>\$5,791,000</u>
Ferry Bond Retirement Account Appropriation	\$38,241,000
Transportation Improvement Board Bond Retirement Account--State Appropriation	\$30,923,000
Motor Vehicle Account--State Appropriation	((\$682,000))
	<u>\$782,000</u>
Transportation Improvement Account--State Appropriation	\$120,000
Multimodal Transportation Account--State Appropriation	((\$370,000))
	<u>\$390,000</u>
Transportation 2003 Account (Nickel Account) Appropriation	\$6,600,000
Transportation Partnership Account--State Appropriation	((\$1,125,000))
	<u>\$975,000</u>
TOTAL APPROPRIATION	((\$418,465,000))
	<u>\$413,535,000</u>

Sec. 1002. 2006 c 370 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Motor Vehicle Account--State Appropriation	\$248,000
Transportation Improvement Account--State Appropriation	((\$13,000))
	<u>\$18,000</u>
Multimodal Transportation Account--State Appropriation	\$35,000
Transportation 2003 Account (Nickel Account)--State Appropriation	\$2,200,000
Transportation Partnership Account--State Appropriation	\$375,000
TOTAL APPROPRIATION	((\$2,871,000))
	<u>\$2,876,000</u>

Sec. 1003. 2006 c 370 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties	((\$487,612,000))
	<u>\$468,391,000</u>

Sec. 1004. 2006 c 370 s 405 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--TRANSFERS

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and transfers	((\$1,037,342,000))
	<u>\$1,031,321,000</u>

Sec. 1005. 2006 c 370 s 406 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRANSFERS

(1) RV Account--State Appropriation:

For transfer to the Motor Vehicle Account--State	((\$2,000,000))
	<u>\$1,915,000</u>

(2) Motor Vehicle Account--State Appropriation:

For transfer to Puget Sound Capital Construction Account--State	((\$73,000,000))
	<u>\$70,223,000</u>

(3) Highway Safety Account--State Appropriation:

For transfer to the Motor Vehicle Account--State	\$5,000,000
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(4) Motor Vehicle Account--State Appropriation:

For transfer to the Puget Sound Ferry Operations Account--State	((\$31,000,000))
	<u>\$50,680,000</u>

(5) Motor Vehicle Account--State Appropriation:

For transfer to the Transportation Partnership Account--State	\$33,127,000
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(6) Highway Safety Account--State Appropriation:

For transfer to the Multimodal Transportation Account--State	\$25,980,000
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(7) Transportation Partnership Account--State Appropriation:

For transfer to the Small City Pavement and Sidewalk Account--State	\$1,000,000
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(8) Transportation Partnership Account--State Appropriation:

For transfer to the Transportation Improvement Account--State	\$2,500,000
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(9) Transportation Partnership Account--State Appropriation:

For transfer to the County Arterial Preservation Account--State	\$1,500,000
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(10) License Plate Technology Account--State Appropriation:

For transfer to the Motor Vehicle Account--State	\$2,500,000
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(11) Multimodal Transportation Account--State Appropriation:

For transfer to the Transportation Partnership Account--State	\$29,417,000
(12) Motor Vehicle Account--State Appropriation:	
For transfer to the Freight Mobility Multimodal Account--State, up to a maximum of	(\$3,700,000)
	<u>\$3,537,000</u>
(13) Multimodal Transportation Account--State Appropriation:	
For transfer to the Tacoma Narrows Toll Bridge Account--State	\$1,300,000
(14) Multimodal Transportation Account--State Appropriation:	
For transfer to the Freight Mobility Multimodal Account--State	\$4,610,000
(15) Motor Vehicle Account--State Appropriation:	
For transfer to the Tacoma Narrows Toll Bridge Account--State	<u>\$5,288,000</u>

The transfers identified in this section are subject to the following conditions and limitations:

- (a) The department of transportation shall only transfer funds in subsection (2) of this section up to the level provided, on an as-needed basis.
- (b) The amount transferred in subsection (12) of this section shall be the same as the Union Pacific Railroad's original contribution, adjusted for earned interest and expenditures, and shall be made on June 30, 2006.
- (c) The amount transferred in subsection (14) of this section is the equivalent of the Burlington Northern Santa Fe funds advanced to the SR 519 project and shall be invested in a freight mobility project agreed to by the freight mobility strategic investment board and the BNSF railway if the final design of the SR 519 project does not include the original rail benefit.
- (d) The amount transferred in subsection (13) of this section is appropriated as a nonreimbursable state financial contribution to the project and does not require repayment.

MISCELLANEOUS

NEW SECTION. Sec. 1101. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 1102. 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.

On page 1, line 1 of the title, after "appropriations;" strike the remainder of the title and insert "amending RCW 46.68.170, 47.29.170, 46.16.685, 47.01.390, 88.16.090, 47.12.244, 70.95.521, 47.06A.030, and 46.68.060; reenacting and amending RCW 46.16.725; amending 2006 c 53 s 2 (uncodified); amending 2006 c 370 ss 205, 208, 209, 210, 215, 218, 224, 226, 227, 228, 229, 301, 302, 303, 304, 305, 306, 307, 308, 309, 401, 402, 404, 405, and 406 (uncodified); adding new sections to 2005 c 313 (uncodified); creating new sections; making appropriations and authorizing expenditures for capital improvements; and declaring an emergency."

and that the bill do pass as recommended by the Conference Committee.

Senator Haugen Representative Clibborn
 Senator Marr Representative Flannigan
 Senator Swecker

There being no objection, the House adopted the conference committee report on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094 and passed the bill as recommended by the conference committee to final passage.

Representatives Clibborn, Curtis, Flannigan, Wood, Armstrong, Eddy, Ahern and Sells spoke in favor of the passage of the bill as recommended by the conference committee.

Representatives Jarrett, Schindler, Ericksen and Kristiansen spoke against the passage of the bill as recommended by the conference committee.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 1094 as recommended by the conference committee.

MOTION

On motion of Representative Santos, Representative Pettigrew was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1094, as recommended by the Conference Committee and the bill passed the House by the following vote: Yeas - 76, Nays - 21, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Appleton, Armstrong, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, O'Brien, Orcutt, Ormsby, Pedersen, Priest, Quall, Roach, Roberts, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 76.

Voting nay: Representatives Anderson, Bailey, Buri, Chandler, Condotta, Crouse, Dunn, Ericksen, Hailey, Haler, Hinkle, Jarrett, Kretz, Kristiansen, Newhouse, Pearson, Rodne, Schindler, Strow, Sump and Warnick - 21.

Excused: Representative Pettigrew - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094, as recommended by the Conference Committee having received the constitutional majority, was declared passed.

POINT OF PERSONAL PRIVILEGE

Representative Clibborn: thanked Transportation staff

MESSAGE FROM THE SENATE

April 21, 2007

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5339 and asks the House for a Conference thereon. The President has appointed the following members as Conferees: Senators Kastama, Kilmer and Zarelli.

Thomas Hoemann, Secretary

There being no objection, the House granted the Senate's request for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5939. The Speaker appointed the following members as Conferees: Representatives Simpson, Rolfes and Curtis.

MESSAGE FROM THE SENATE

April 21, 2007

Mr. Speaker:

The Senate has adopted the report of the Conference Committee on ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5930, and has passed the bill as recommended by the Conference Committee.

Brad Hendrickson, Deputy Secretary

MESSAGE FROM THE SENATE

April 14, 2007

Mr. Speaker:

The Senate refuses to concur in the House amendment to SENATE BILL NO. 5272 and asks the House to recede therefrom.

Brad Hendrickson, Deputy Secretary

There being no objection, the rules were suspended and SENATE BILL NO. 5272 was returned to second reading for purpose of amendment.

SECOND READING

SENATE BILL NO. 5272, By Senators Haugen and Sheldon; by request of Department of Licensing

Modifying the administration of fuel taxes.

With the consent of the House, amendment (935) was withdrawn.

Representative Clibborn moved the adoption of amendment (938):

Beginning on page 1, after line 2 of the amendment, strike the remainder of the amendment and insert the following:

"Sec. 1. RCW 82.36.010 and 2001 c 270 s 1 are each amended to read as follows:

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

(1) "Blended fuel" means a mixture of motor vehicle fuel and another liquid, other than a de minimis amount of the liquid, that can be used as a fuel to propel a motor vehicle.

(2) "Bond" means a bond duly executed with a corporate surety qualified under chapter 48.28 RCW, which bond is payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter.

(3) "Bulk transfer" means a transfer of motor vehicle fuel by pipeline or vessel.

(4) "Bulk transfer-terminal system" means the motor vehicle fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Motor vehicle fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer-terminal system. Motor vehicle fuel in the fuel tank of an engine, motor vehicle, or in a railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer-terminal system.

(5) ~~("Dealer" means a person engaged in the retail sale of motor vehicle fuel.~~

~~(6))~~ (6) "Department" means the department of licensing.

~~(7))~~ (7) "Director" means the director of licensing.

~~(8))~~ (8) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

(a) A knowing: False statement; misrepresentation of fact; or other act of deception; or

(b) An intentional: Omission; failure to file a return or report; or other act of deception.

~~(9))~~ (9) "Export" means to obtain motor vehicle fuel in this state for sales or distribution outside the state.

~~(10))~~ (10) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

~~(11))~~ (11) "Import" means to bring motor vehicle fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(12) "International fuel tax agreement licensee" means a motor vehicle fuel user operating qualified motor vehicles in interstate commerce and licensed by the department under the international fuel tax agreement.

(13) "Licensee" means a person holding a motor vehicle fuel supplier, motor vehicle fuel importer, motor vehicle fuel exporter, motor vehicle fuel blender, motor vehicle distributor, or international fuel tax agreement license issued under this chapter.

~~(14))~~ ~~("Marine fuel dealer" means a person engaged in the retail sale of motor vehicle fuel whose place of business and/or sale outlet is located upon a navigable waterway.~~

~~(15))~~ (15) "Motor vehicle fuel blender" means a person who produces blended motor fuel outside the bulk transfer-terminal system.

~~(16))~~ (16) "Motor vehicle fuel distributor" means a person who acquires motor vehicle fuel from a supplier, distributor, or licensee for subsequent sale and distribution.

~~(17))~~ (17) "Motor vehicle fuel exporter" means a person who purchases motor vehicle fuel in this state and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state. If the exporter of record is acting as an agent, the person for whom the agent is acting is the exporter. If

there is no exporter of record, the owner of the motor fuel at the time of exportation is the exporter.

~~(18))~~ (18) "Motor vehicle fuel importer" means a person who imports motor vehicle fuel into the state by a means other than the bulk transfer-terminal system. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record, the owner of the motor vehicle fuel at the time of importation is the importer.

~~(19))~~ (19) "Motor vehicle fuel supplier" means a person who holds a federal certificate of registry that is issued under the internal revenue code and authorizes the person to enter into federal tax-free transactions on motor vehicle fuel in the bulk transfer-terminal system.

~~(20))~~ (20) "Motor vehicle" means a self-propelled vehicle designed for operation upon land utilizing motor vehicle fuel as the means of propulsion.

~~(21))~~ (21) "Motor vehicle fuel" means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats.

~~(22))~~ (22) "Person" means a natural person, fiduciary, association, or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

~~(23))~~ (23) "Position holder" means a person who holds the inventory position in motor vehicle fuel, as reflected by the records of the terminal operator. A person holds the inventory position in motor vehicle fuel if the person has a contractual agreement with the terminal for the use of storage facilities and terminating services at a terminal with respect to motor vehicle fuel. "Position holder" includes a terminal operator that owns motor vehicle fuel in their terminal.

~~(24))~~ (24) "Rack" means a mechanism for delivering motor vehicle fuel from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer.

~~(25))~~ (25) "Refiner" means a person who owns, operates, or otherwise controls a refinery.

~~(26))~~ (26) "Removal" means a physical transfer of motor vehicle fuel other than by evaporation, loss, or destruction.

~~(27))~~ (27) "Terminal" means a motor vehicle fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service, is supplied by pipeline or vessel, and from which reportable motor vehicle fuel is removed at a rack.

~~(28))~~ (28) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

~~(29))~~ (29) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable motor vehicle fuel is transferred from one licensed supplier to another licensed supplier under an exchange or buy-sell agreement whereby the supplier that is the position holder agrees to deliver taxable motor vehicle fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder.

Sec. 2. RCW 82.36.020 and 2001 c 270 s 2 are each amended to read as follows:

(1) There is hereby levied and imposed upon motor vehicle fuel ~~(users))~~ licensees, other than motor vehicle fuel distributors, a tax at the rate computed in the manner provided in RCW 82.36.025 on each gallon of motor vehicle fuel.

(2) The tax imposed by subsection (1) of this section is imposed when any of the following occurs:

(a) Motor vehicle fuel is removed in this state from a terminal if the motor vehicle fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(b) Motor vehicle fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the motor vehicle fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(c) Motor vehicle fuel enters into this state (~~for sale, consumption, use, or storage~~) if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Motor vehicle fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the motor vehicle fuel;

(e) Blended motor vehicle fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended motor vehicle fuel subject to the tax is the difference between the total number of gallons of blended motor vehicle fuel removed or sold and the number of gallons of previously taxed motor vehicle fuel used to produce the blended motor vehicle fuel;

(f) Motor vehicle fuel is sold by a licensed motor vehicle fuel supplier to a motor vehicle fuel distributor, motor vehicle fuel importer, ~~(or)~~ motor vehicle fuel blender, or international fuel tax agreement licensee and the motor vehicle fuel is not removed from the bulk transfer-terminal system.

(3) The proceeds of the motor vehicle fuel excise tax shall be distributed as provided in RCW 46.68.090.

Sec. 3. RCW 82.36.025 and 2005 c 314 s 101 are each amended to read as follows:

(1) A motor vehicle fuel tax rate of twenty-three cents per gallon (~~applies to the sale, distribution, or use of~~) on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(2) Beginning July 1, 2003, an additional and cumulative motor vehicle fuel tax rate of five cents per gallon (~~applies to the sale, distribution, or use of~~) on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Beginning July 1, 2005, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon (~~applies to the sale, distribution, or use of~~) on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(4) Beginning July 1, 2006, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon (~~applies to the sale, distribution, or use of~~) on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(5) Beginning July 1, 2007, an additional and cumulative motor vehicle fuel tax rate of two cents per gallon (~~applies to the sale, distribution, or use of~~) on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(6) Beginning July 1, 2008, an additional and cumulative motor vehicle fuel tax rate of one and one-half cents per gallon (~~applies to the sale, distribution, or use of~~) on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

Sec. 4. RCW 82.36.026 and 2001 c 270 s 3 are each amended to read as follows:

(1) A licensed supplier shall (~~remit~~) be liable for and pay tax to the department as provided in RCW 82.36.020. On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer (~~who~~) shall (~~buyer shall remit~~) be liable for and pay the tax.

(2) A refiner shall (~~remit~~) be liable for and pay tax to the department on motor vehicle fuel removed from a refinery as provided in RCW 82.36.020(2)(b).

(3) ~~(An)~~ A licensed importer shall (~~remit~~) be liable for and pay tax to the department on motor vehicle fuel imported into this state as provided in RCW 82.36.020(2)(c).

(4) A licensed blender shall (~~remit~~) be liable for and pay tax to the department on the removal or sale of blended motor vehicle fuel as provided in RCW 82.36.020(2)(e).

(5) Nothing in this chapter shall prohibit the licensee liable for payment of the tax under this chapter from including as a part of the selling price an amount equal to the tax.

NEW SECTION. Sec. 5. A new section is added to chapter 82.36 RCW to read as follows:

International fuel tax agreement licensees, or persons operating motor vehicles under other reciprocity agreements entered into with the state of Washington, are liable for and must pay the tax under RCW 82.36.020 to the department on motor vehicle fuel used to operate motor vehicles on the highways of this state. This provision does not apply if the tax under RCW 82.36.020 has previously been imposed and paid by the international fuel tax agreement licensee or if the use of such fuel is exempt from the tax under this chapter.

Sec. 6. RCW 82.36.027 and 1998 c 176 s 9 are each amended to read as follows:

A terminal operator is jointly and severally liable for (~~remitting~~) payment of the tax imposed under RCW 82.36.020(1) if, at the time of removal:

(1) The position holder with respect to the motor vehicle fuel is a person other than the terminal operator and is not a licensee;

(2) The terminal operator is not a licensee;

(3) The position holder has an expired internal revenue service notification certificate issued under 26 C.F.R. Part 48; or

(4) The terminal operator had reason to believe that information on the notification certificate was false.

Sec. 7. RCW 82.36.029 and 1998 c 176 s 10 are each amended to read as follows:

Upon the taxable removal of motor vehicle fuel by a licensed supplier and upon importation by a licensed importer, the licensee who acquired or removed the motor vehicle fuel, other than a motor vehicle fuel exporter, shall be entitled to a deduction from the tax liability on the gallonage of taxable motor vehicle fuel removed or imported in order to account for handling losses, as follows: For a motor vehicle fuel supplier (~~acting as a distributor~~), one-quarter of one percent; and for (~~all other licensees~~) a licensed importer, thirty one-hundredths of one percent. For those licensees required to file tax reports, the handling loss deduction shall be reported on tax

reports filed with the department. ~~((For motor vehicle fuel distributors, the handling loss deduction shall be shown on the invoice provided to the motor vehicle fuel distributor by the seller.))~~

Sec. 8. RCW 82.36.031 and 1998 c 176 s 11 are each amended to read as follows:

For the purpose of determining the amount of liability for the tax imposed under this chapter, and to periodically update license information, each licensee, other than a motor vehicle fuel distributor or an international fuel tax agreement licensee, shall file monthly tax reports with the department, on a form prescribed by the department. An international fuel tax licensee shall file quarterly tax reports with the department, on a form prescribed by the department.

A report shall be filed with the department even though no motor vehicle fuel tax is due for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and made under penalties of perjury, which declaration has the same force and effect as a verification of the report and is in lieu of the verification. The report shall show information as the department may require for the proper administration and enforcement of this chapter. Tax reports shall be filed on or before the twenty-fifth day of the next succeeding calendar month following the period to which the reports relate. If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date.

The department, if it deems it necessary in order to ensure payment of the tax imposed under this chapter, or to facilitate the administration of this chapter, may require the filing of reports and tax remittances at shorter intervals than one month.

Sec. 9. RCW 82.36.045 and 1998 c 176 s 16 are each amended to read as follows:

(1) If the department determines that the tax reported by a licensee is deficient, the department shall assess the deficiency on the basis of information available to it, and shall add a penalty of two percent of the amount of the deficiency.

(2) If a licensee, or person acting as such, fails, neglects, or refuses to file a motor vehicle fuel tax report the department shall, on the basis of information available to it, determine the tax liability of the licensee or person for the period during which no report was filed. The department shall add the penalty provided in subsection (1) of this section to the tax. An assessment made by the department under this subsection or subsection (1) of this section is presumed to be correct. In any case, where the validity of the assessment is questioned, the burden is on the person who challenges the assessment to establish by a fair preponderance of evidence that it is erroneous or excessive, as the case may be.

(3) If a licensee or person acting as such files a false or fraudulent report with intent to evade the tax imposed by this chapter, the department shall add to the amount of deficiency a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsections (1) and (2) of this section and all other penalties prescribed by law.

(4) Motor vehicle fuel tax, penalties, and interest payable under this chapter bears interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion of it should have been paid until the date of payment. If a licensee or person acting as such establishes by a fair preponderance of evidence that the failure to pay the amount of tax due was attributable to reasonable cause and was not intentional or willful, the department may waive the penalty. The department may

waive the interest when it determines the cost of processing or collection of the interest exceeds the amount of interest due.

(5) Except in the case of a fraudulent report, neglect or refusal to make a report, or failure to pay or to pay the proper amount, the department shall assess the deficiency under subsection (1) or (2) of this section within five years from the last day of the succeeding calendar month after the reporting period for which the amount is proposed to be determined or within five years after the return is filed, whichever period expires later.

(6) Except in the case of violations of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interest of carrying out the purpose of this chapter, it may mitigate such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter.

(7) A licensee or person acting as such against whom an assessment is made under subsection (1) or (2) of this section may petition for a reassessment within thirty days after service upon the licensee of notice of the assessment. If the petition is not filed within the thirty-day period, the amount of the assessment becomes final at the expiration of that period.

If a petition for reassessment is filed within the thirty-day period, the department shall reconsider the assessment and, if the petitioner has so requested in its petition, shall grant the petitioner an oral hearing and give the petitioner twenty days' notice of the time and place of the hearing. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment becomes final thirty days after service of notice upon the petitioner.

An assessment made by the department becomes due and payable when it becomes final. If it is not paid to the department when due and payable, the department shall add a penalty of ten percent of the amount of the tax.

(8) In a suit brought to enforce the rights of the state under this chapter, the assessment showing the amount of taxes, penalties, interest, and cost unpaid to the state is prima facie evidence of the facts as shown.

(9) A notice of assessment required by this section must be served personally or by certified or registered mail. If it is served by mail, service shall be made by deposit of the notice in the United States mail, postage prepaid, addressed to the respondent at the most current address furnished to the department.

~~((10) The tax imposed by this chapter, if required to be collected by the seller, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.))~~

Sec. 10. RCW 82.36.060 and 2001 c 270 s 5 are each amended to read as follows:

(1) An application for a license issued under this chapter shall be made to the department on forms to be furnished by the

department and shall contain such information as the department deems necessary.

(2) Every application for a license must contain the following information to the extent it applies to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

(b) The applicant's form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant and any partner, officer, or director;

(d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime that directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.

(3) An applicant for a license as a motor vehicle fuel importer must list on the application each state, province, or country from which the applicant intends to import motor vehicle fuel and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(4) An applicant for a license as a motor vehicle fuel exporter must list on the application each state, province, or country to which the exporter intends to export motor vehicle fuel received in this state by means of a transfer outside of the bulk transfer-terminal system and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(5) An applicant for a license as a motor vehicle fuel supplier must have a federal certificate of registry that is issued under the internal revenue code and authorizes the applicant to enter into federal tax-free transactions on motor vehicle fuel in the terminal transfer system.

(6) After receipt of an application for a license, the director may conduct an investigation to determine whether the facts set forth are true. The director shall require a fingerprint record check of the applicant through the Washington state patrol criminal identification system and the federal bureau of investigation before issuance of a license. The results of the background investigation including criminal history information may be released to authorized department personnel as the director deems necessary. The department shall charge a license holder or license applicant a fee of fifty dollars for each background investigation conducted.

An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.

(7) Except as provided by subsection (8) of this section, before granting any license issued under this chapter, the department shall require applicant to file with the department, in such form as shall be prescribed by the department, a corporate surety bond duly executed by the applicant as principal, payable to the state and conditioned for faithful performance of all the requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter. The total amount of the bond or bonds shall be fixed by the department and may be increased or reduced by the

department at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds, the department shall require a bond or bonds equivalent in total amount to twice the estimated monthly excise tax determined in such manner as the department may deem proper. If at any time the estimated excise tax to become due during the succeeding month amounts to more than fifty percent of the established bond, the department shall require additional bonds or securities to maintain the marginal ratio herein specified or shall demand excise tax payments to be made weekly or semimonthly to meet the requirements hereof.

The total amount of the bond or bonds required of any licensee shall never be less than five thousand dollars nor more than one hundred thousand dollars.

No recoveries on any bond or the execution of any new bond shall invalidate any bond and no revocation of any license shall effect the validity of any bond but the total recoveries under any one bond shall not exceed the amount of the bond.

In lieu of any such bond or bonds in total amount as herein fixed, a licensee may deposit with the state treasurer, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the state, or any county of the state, of an actual market value not less than the amount so fixed by the department.

Any surety on a bond furnished by a licensee as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty days from the date upon which such surety has lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty day period. The department shall promptly, upon receiving any such request, notify the licensee who furnished the bond; and unless the licensee, on or before the expiration of the thirty day period, files a new bond, or makes a deposit in accordance with the requirements of this section, the department shall forthwith cancel the license. Whenever a new bond is furnished by a licensee, the department shall cancel the old bond as soon as the department and the attorney general are satisfied that all liability under the old bond has been fully discharged.

The department may require a licensee to give a new or additional surety bond or to deposit additional securities of the character specified in this section if, in its opinion, the security of the surety bond theretofore filed by such licensee, or the market value of the properties deposited as security by the licensee, shall become impaired or inadequate; and upon the failure of the licensee to give such new or additional surety bond or to deposit additional securities within thirty days after being requested so to do by the department, the department shall forthwith cancel his or her license.

(8) The department may waive the requirements of subsection (7) of this section for licensed distributors if, upon determination by the department, the licensed distributor has sufficient resources, assets, other financial instruments, or other means, to adequately make payments on the estimated monthly motor vehicle fuel tax payments, penalties, and interest arising out of this chapter. The department shall adopt rules to administer this subsection. An application for an international fuel tax agreement license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department may require. The department shall charge a fee of ten dollars per set of international fuel tax agreement decals issued to each applicant or licensee. The department shall transmit the fee to the state treasurer for deposit in the motor vehicle fund.

Sec. 11. RCW 82.36.080 and 1998 c 176 s 20 are each amended to read as follows:

(1) It shall be unlawful for any person to engage in business in this state as any of the following unless the person is the holder of an uncanceled license issued by the department authorizing the person to engage in that business:

- (a) Motor vehicle fuel supplier;
- (b) Motor vehicle fuel distributor;
- (c) Motor vehicle fuel exporter;
- (d) Motor vehicle fuel importer; ~~((or))~~
- (e) Motor vehicle fuel blender; or
- (f) International fuel tax agreement licensee.

(2) A person engaged in more than one activity for which a license is required must have a separate license classification for each activity, but a motor vehicle fuel supplier is not required to obtain a separate license classification for any other activity for which a license is required.

(3) If any person acts as a licensee without first securing the license required herein the excise tax shall be immediately due and payable on account of all motor vehicle fuel distributed or used by the person. The director shall proceed forthwith to determine from the best available sources, the amount of the tax, and the director shall immediately assess the tax in the amount found due, together with a penalty of one hundred percent of the tax, and shall make a certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty, or both, such certificate shall be prima facie evidence that the person therein named is indebted to the state in the amount of the tax and penalty therein stated. Any tax or penalty so assessed may be collected in the manner prescribed in this chapter with reference to delinquency in payment of the tax or by an action at law, which the attorney general shall commence and prosecute to final determination at the request of the director. The foregoing remedies of the state shall be cumulative and no action taken pursuant to this section shall relieve any person from the penal provisions of this chapter.

Sec. 12. RCW 82.36.160 and 1998 c 176 s 27 are each amended to read as follows:

Every licensee shall maintain in the office of his or her principal place of business in this state, for a period of five years, records of motor vehicle fuel received, sold, distributed, or used by the licensee, in such form as the director may prescribe, together with invoices, bills of lading, and other pertinent papers as may be required under the provisions of this chapter.

~~((Every dealer purchasing motor vehicle fuel taxable under this chapter for the purpose of resale, shall maintain within this state, for a period of two years a record of motor vehicle fuels received, the amount of tax paid to the licensee as part of the purchase price, together with delivery tickets, invoices, and bills of lading, and such other records as the director shall require.))~~

Sec. 13. RCW 82.36.180 and 1998 c 176 s 30 are each amended to read as follows:

The director, or duly authorized agents, may make such examinations of the records, stocks, facilities, and equipment of any licensee, ~~((and service stations.))~~ and make such other investigations as deemed necessary in carrying out the provisions of this chapter. If such examinations or investigations disclose that any reports of licensees theretofore filed with the director pursuant to the requirements of this chapter have shown incorrectly the gallonage of motor vehicle fuel distributed or the tax ~~((accruing))~~ liability thereon, the director may make such changes in subsequent reports and

payments of such licensees as deemed necessary to correct the errors disclosed.

Every such licensee or such other person not maintaining records in this state so that an audit of such records may be made by the director or a duly authorized representative shall be required to make the necessary records available to the director upon request and at a designated office within this state; or, in lieu thereof, the director or a duly authorized representative shall proceed to any out-of-state office at which the records are prepared and maintained to make such examination.

NEW SECTION. Sec. 14. A new section is added to chapter 82.36 RCW to read as follows:

Motor vehicle fuel that is used exclusively for racing and is illegal for use on the public highways of this state under state or federal law is exempt from the tax imposed under this chapter.

Sec. 15. RCW 82.36.320 and 1961 c 15 s 82.36.320 are each amended to read as follows:

Any person claiming refund on motor vehicle fuel used other than in motor vehicles as herein provided ~~((and any person purchasing motor vehicle fuel from a dealer who is claiming refund on account of the sale of such fuel under RCW 82.36.305))~~ may be required by the director to also furnish information regarding the amount of motor vehicle fuel purchased from other sources or for other purposes during the period reported for which no refund is claimed.

Sec. 16. RCW 82.36.340 and 1961 c 15 s 82.36.340 are each amended to read as follows:

The director may in order to establish the validity of any claim for refund require the claimant ~~((or, in the case of a dealer filing a claim for refund as provided by RCW 82.36.305, the person to whom such fuel was sold.))~~ to furnish such additional proof of the validity of the claim as the director may determine, and may examine the books and records of the claimant or said person to whom the fuel was sold for such purpose. The records shall be sufficient to substantiate the accuracy of the claim and shall be in such form and contain such information as the director may require. The failure to maintain such records or to accede to a demand for an examination of such records may be deemed by the director as sufficient cause for denial of all right to the refund claimed on account of the transaction in question.

Sec. 17. RCW 82.36.370 and 1998 c 176 s 42 are each amended to read as follows:

(1) A refund shall be made in the manner provided in this chapter or a credit given to a licensee allowing for the excise tax paid or accrued on all motor vehicle fuel which is lost or destroyed, while ~~((applicant shall be the owner thereof))~~ the licensee was the owner, through fire, lightning, flood, wind storm, or explosion.

(2) A refund shall be made in the manner provided in this chapter or a credit given allowing for the excise tax paid or accrued on all motor vehicle fuel of five hundred gallons or more which is lost or destroyed, while ~~((applicant shall be))~~ the licensee was the owner thereof, through leakage or other casualty except evaporation, shrinkage or unknown causes: PROVIDED, That the director shall be notified in writing as to the full circumstances surrounding such loss or destruction and the amount of the loss or destruction within thirty days from the day of discovery of such loss or destruction.

(3) Recovery for such loss or destruction under either subsection (1) or (2) must be susceptible to positive proof thereby enabling the

director to conduct such investigation and require such information as the director may deem necessary.

In the event that the director is not satisfied that the fuel was lost or destroyed as claimed, wherefore required information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, the director may deem as sufficient cause the denial of all right relating to the refund or credit for the excise tax on motor vehicle fuel alleged to be lost or destroyed.

Sec. 18. RCW 82.36.380 and 2003 c 358 s 13 are each amended to read as follows:

(1) It is unlawful for a person or corporation to:

(a) Evade a tax or fee imposed under this chapter;

(b) File a false statement of a material fact on a motor fuel license application or motor fuel refund application;

(c) Act as a motor fuel importer, motor fuel blender, or motor fuel supplier unless the person holds an uncanceled motor fuel license issued by the department authorizing the person to engage in that business;

(d) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(e) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering motor vehicle fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons.

(2) A violation of subsection (1) of this section is a class C felony under chapter 9A.20 RCW. In addition to other penalties and remedies provided by law, the court shall order a person or corporation found guilty of violating subsection (1) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded, to the multimodal transportation account of the state.

(3) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax on the due date as prescribed in this chapter is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax imposed by this chapter is personally liable to the state for the amount of the tax.

Sec. 19. RCW 82.36.450 and 1995 c 320 s 2 are each amended to read as follows:

~~((The department of licensing may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding the imposition, collection, and use of this state's motor vehicle fuel tax, or the budgeting or use of moneys in lieu thereof, upon terms substantially the same as those in the consent decree entered by the federal district court (Eastern District of Washington) in *Confederated Tribes of the Colville Reservation v. DOL, et al.*, District Court No. CY 92-248 JLO.))~~ (1) The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding motor vehicle fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed by the tribe to operate a retail station located on reservation or trust property. The agreement may provide

mutually agreeable means to address any tribal immunities or any preemption of the state motor vehicle fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on the effective date of this act. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on the effective date of this act.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all motor vehicle fuel only from persons or companies operating lawfully in accordance with this chapter as a motor vehicle fuel distributor, supplier, importer, or blender, or from a tribal distributor, supplier, importer, or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of motor vehicle fuel purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement shall be deemed to be personal information under RCW 42.56.230(3)(b) and exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing shall prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes.

NEW SECTION. Sec. 20. A new section is added to chapter 82.36 RCW to read as follows:

It is the intent and purpose of this chapter that the tax shall be imposed at the time and place of the first taxable event and upon the first taxable person within this state. Any person whose activities would otherwise require payment of the tax imposed by RCW 82.36.020 but who is exempt from the tax nevertheless has a precollection obligation for the tax that must be imposed on the first taxable event within this state. Failure to pay the tax with respect to a taxable event shall not prevent tax liability from arising by reason of a subsequent taxable event.

Sec. 21. RCW 82.38.030 and 2005 c 314 s 102 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel ~~((users))~~ licenses, other than special fuel distributors, a tax at the rate of twenty-three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature.

(2) Beginning July 1, 2003, an additional and cumulative tax rate of five cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licenses, other than special fuel distributors. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Beginning July 1, 2005, an additional and cumulative tax rate of three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors.

(4) Beginning July 1, 2006, an additional and cumulative tax rate of three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors.

(5) Beginning July 1, 2007, an additional and cumulative tax rate of two cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors.

(6) Beginning July 1, 2008, an additional and cumulative tax rate of one and one-half cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors.

(7) Taxes are imposed when:

(a) Special fuel is removed in this state from a terminal if the special fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is ~~((to))~~ by a special fuel ((distributor)) supplier for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(b) Special fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the special fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel ~~((distributor))~~ supplier for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(c) Special fuel enters into this state for sale, consumption, use, or storage, unless the fuel enters this state for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320, if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Special fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the special fuel;

(e) Blended special fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended special fuel subject to tax is the difference between the total number of gallons of blended special fuel removed or sold and the number of gallons of previously taxed special fuel used to produce the blended special fuel;

(f) Dyed special fuel is used on a highway, as authorized by the internal revenue code, unless the use is exempt from the special fuel tax;

(g) Dyed special fuel is held for sale, sold, used, or is intended to be used in violation of this chapter;

(h) Special fuel purchased by an international fuel tax agreement licensee under RCW 82.38.320 is used on a highway; and

(i) Special fuel is sold by a licensed special fuel supplier to a special fuel distributor, special fuel importer, or special fuel blender

and the special fuel is not removed from the bulk transfer-terminal system.

~~((8) The tax imposed by this chapter, if required to be collected by the licensee, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax:))~~

Sec. 22. RCW 82.38.032 and 1998 c 176 s 52 are each amended to read as follows:

~~((The tax under RCW 82.38.030, if not previously imposed and paid, must be paid over to the department by special fuel users and persons licensed under the international fuel tax agreement or other fuel tax reciprocity agreements entered into with the state of Washington, on the use of special fuel to operate motor vehicles on the highways of this state, unless the use is exempt from the tax under this chapter:)) International fuel tax agreement licensees, or persons operating motor vehicles under other reciprocity agreements entered into with the state of Washington, are liable for and must pay the tax under RCW 82.38.030 to the department on special fuel used to operate motor vehicles on the highways of this state. This provision does not apply if the tax under RCW 82.38.030 has previously been imposed and paid by the international fuel tax agreement licensee or if the use of such fuel is exempt from the tax under this chapter.~~

Sec. 23. RCW 82.38.035 and 2005 c 314 s 107 are each amended to read as follows:

(1) A licensed supplier shall ~~((remit))~~ be liable for and pay tax on special fuel to the department as provided in RCW 82.38.030(7)(a). On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer shall ~~((remit))~~ be liable for and pay the tax.

(2) A refiner shall ~~((remit))~~ be liable for and pay tax to the department on special fuel removed from a refinery as provided in RCW 82.38.030(7)(b).

(3) ~~((An))~~ A licensed importer shall ((remit)) be liable for and pay tax to the department on special fuel imported into this state as provided in RCW 82.38.030(7)(c).

(4) A licensed blender shall ~~((remit))~~ be liable for and pay tax to the department on the removal or sale of blended special fuel as provided in RCW 82.38.030(7)(e).

(5) A licensed dyed special fuel user shall ~~((remit))~~ be liable for and pay tax to the department on the use of dyed special fuel as provided in RCW 82.38.030(7)(f).

(6) Nothing in this chapter prohibits the licensee liable for payment of the tax under this chapter from including as a part of the selling price an amount equal to such tax.

Sec. 24. RCW 82.38.050 and 1990 c 250 s 82 are each amended to read as follows:

~~((Except as otherwise provided in this chapter, every special fuel user shall be liable for the tax on special fuel used in motor vehicles leased to the user for thirty days or more and operated on the highways of this state to the same extent and in the same manner as special fuel used in his own motor vehicles and operated on the~~

~~highways of this state. PROVIDED, That~~) A lessor who is engaged regularly in the business of leasing or renting for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be the special fuel user when he supplies or pays for the special fuel consumed in such vehicles, and such lessor may be issued ~~((a))~~ an international fuel tax agreement license ~~((as a special fuel user))~~ when application and bond have been properly filed with and approved by the department for such license. Any lessee may exclude motor vehicles of which he or she is the lessee from reports and liabilities pursuant to this chapter, but only if the motor vehicles in question have been leased from a lessor holding a valid ~~((special fuel user's))~~ international fuel tax agreement license.

~~((Every such lessor shall file with the application for a special fuel user's license one copy of the lease form or service contract the lessor enters into with the various lessees of the lessor's motor vehicles.))~~ When the ~~((special fuel user's))~~ license has been secured, such lessor shall make and assign to each motor vehicle leased for interstate operation a photocopy of such license to be carried in the cab compartment of the motor vehicle and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned and the name of the lessee. Such lessor shall be responsible for the proper use of such photocopy of the license issued and its return to the lessor with the motor vehicle to which it is assigned.

The lessor shall be responsible for fuel tax licensing and reporting, as required by this chapter, on the operation of all motor vehicles leased to others for less than thirty days.

Sec. 25. RCW 82.38.100 and 1999 c 270 s 2 are each amended to read as follows:

(1) Any special fuel user operating a motor vehicle into this state for commercial purposes may make application for a trip permit that shall be good for a period of three consecutive days beginning and ending on the dates specified on the face of the permit issued, and only for the vehicle for which it is issued.

(2) Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety, signed, and dated by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, vehicle license number, or vehicle identification number invalidates the permit. A violation of, or a failure to comply with, this subsection is a gross misdemeanor.

(3) For each permit issued, there shall be collected a filing fee of one dollar, an administrative fee of ten dollars, and an excise tax of nine dollars. Such fees and tax shall be in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state, and no report of mileage shall be required with respect to such vehicle. Trip permits will not be issued if the applicant has outstanding fuel taxes, penalties, or interest owing to the state or has had a special fuel license revoked for cause and the cause has not been removed.

(4) Blank permits may be obtained from field offices of the department of transportation, ~~((Washington state patrol,))~~ department of licensing, or other agents appointed by the department. The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(5) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other fees and excise taxes collected by the department for trip permits shall be credited and deposited in the same manner as the special fuel tax collected under this chapter and shall not be subject to exchange, refund, or credit.

Sec. 26. RCW 82.38.130 and 1998 c 176 s 65 are each amended to read as follows:

The department may revoke the license of any licensee for any of the grounds constituting cause for denial of a license set forth in RCW 82.38.120 or for other reasonable cause. Before revoking such license the department shall notify the licensee to show cause within twenty days of the date of the notice why the license should not be revoked: PROVIDED, That at any time prior to and pending such hearing the department may, in the exercise of reasonable discretion, suspend such license.

The department shall cancel any special fuel license immediately upon surrender thereof by the holder.

Any surety on a bond furnished by a licensee as provided in this chapter shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of forty-five days from the date which such surety shall have lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the forty-five day period. The department shall promptly, upon receiving any such request, notify the licensee who furnished the bond, and unless the licensee, on or before the expiration of the forty-five day period, files a new bond, in accordance with this section, the department ~~((forthwith))~~ shall cancel the ~~((special fuel dealer's or special fuel user's))~~ license.

The department may require a new or additional surety bond of the character specified in RCW 82.38.020(3) if, in its opinion, the security of the surety bond therefor filed by such licensee, shall become impaired or inadequate. Upon failure of the licensee to give such new or additional surety bond within forty-five days after being requested to do so by the department, or after he or she shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the department, the department forthwith shall cancel his or her license.

Sec. 27. RCW 82.38.140 and 1998 c 176 s 66 are each amended to read as follows:

(1) Every licensee and every person importing, manufacturing, refining, ~~((dealing in,))~~ transporting, blending, or storing special fuel in this state shall keep for a period of not less than five years open to inspection at all times during the business hours of the day to the department or its authorized representatives, a complete record of all special fuel purchased or received and all of such products sold, delivered, or used by them. Such records shall show:

- (a) The date of each receipt;
- (b) The name and address of the person from whom purchased or received;
- (c) The number of gallons received at each place of business or place of storage in the state of Washington;
- (d) The date of each sale or delivery;

(e) The number of gallons sold, delivered, or used for taxable purposes;

(f) The number of gallons sold, delivered, or used for any purpose not subject to the tax imposed in this chapter;

(g) The name, address, and special fuel license number of the purchaser if the special fuel tax is not collected on the sale or delivery;

(h) The inventories of special fuel on hand at each place of business at the end of each month.

(2)(a) All international fuel tax agreement licensees and dyed special fuel users authorized to use dyed special fuel on highway in vehicles licensed for highway operation shall maintain detailed mileage records on an individual vehicle basis.

(b) Such operating records shall show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle.

(c) In the absence of operating records that show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle, fuel consumption must be computed under RCW 82.38.060.

(3) The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering special fuel to submit periodic reports to the department regarding the disposition of the fuel. The reports must be on forms prescribed by the department and must contain such information as the department may require.

(4) Every person operating any conveyance for the purpose of hauling, transporting, or delivering special fuel in bulk shall have and possess during the entire time the person is hauling special fuel, an invoice, bill of sale, or other statement showing the name, address, and license number of the seller or consigner, the destination, name, and address of the purchaser or consignee, license number, if applicable, and the number of gallons. The person hauling such special fuel shall at the request of any law enforcement officer or authorized representative of the department, or other person authorized by law to inquire into, or investigate those types of matters, produce for inspection such invoice, bill of sale, or other statement and shall permit such official to inspect and gauge the contents of the vehicle.

Sec. 28. RCW 82.38.150 and 1998 c 176 s 67 are each amended to read as follows:

For the purpose of determining the amount of liability for the tax herein imposed, and to periodically update license information, each licensee, other than a special fuel distributor, an international fuel tax agreement licensee, or a dyed special fuel user, shall file monthly tax reports with the department, on forms prescribed by the department.

Dyed special fuel users whose estimated yearly tax liability is two hundred fifty dollars or less, shall file a report yearly, and dyed special fuel users whose estimated yearly tax liability is more than two hundred fifty dollars, shall file reports quarterly. Special fuel users licensed under the international fuel tax agreement shall file reports quarterly. ~~((Special fuel distributors))~~ Heating oil dealers subject to the pollution liability insurance agency fee and reporting requirements shall remit pollution liability insurance agency returns and any associated payment due to the department annually.

The department shall establish the reporting frequency for each applicant at the time the special fuel license is issued. If it becomes apparent that any licensee is not reporting in accordance with the above schedule, the department shall change the licensee's reporting frequency by giving thirty days' notice to the licensee by mail to the licensee's address of record. A report shall be filed with the department even though no special fuel was used, or tax is due, for

the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and is in lieu of such verification. The report shall show such information as the department may reasonably require for the proper administration and enforcement of this chapter. ~~((For counties within which an additional excise tax on special fuel has been levied by that jurisdiction under RCW 82.80.010, the report must show the quantities of special fuel sold, distributed, or withdrawn from bulk storage by the reporting dealer or user within the county's boundaries and the tax liability from its levy.))~~ A licensee shall file a tax report on or before the twenty-fifth day of the next succeeding calendar month following the period to which it relates.

Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Taxpayers granted approval to file reports in this manner will file such reports on or before the twenty-fifth day following the end of the reporting period. No change to this reporting period will be made without the written authorization of the department.

If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon an envelope containing such report properly addressed to the department, or on the date it was mailed if proof satisfactory to the department is available to establish the date it was mailed.

The department, if it deems it necessary in order to insure payment of the tax imposed by this chapter, or to facilitate the administration of this chapter, has the authority to require the filing of reports and tax remittances at shorter intervals than one month if, in its opinion, an existing bond has become insufficient.

Sec. 29. RCW 82.38.180 and 1998 c 176 s 71 are each amended to read as follows:

Any person who has purchased special fuel on which tax has been paid ~~((a special fuel tax either directly or to the vendor from whom it was purchased))~~ may file a claim with the department for a refund of the tax ~~((so paid and shall be reimbursed and repaid the amount of))~~ for:

(1) ~~((Any))~~ Taxes previously paid on special fuel used for purposes other than for the propulsion of motor vehicles upon the public highways in this state.

(2) ~~((Any))~~ Taxes previously paid on special fuel exported for use outside of this state. Special fuel carried from this state in the fuel tank of a motor vehicle is deemed to be exported from this state. Special fuel distributed to a federally recognized Indian tribal reservation located within the state of Washington is not considered exported outside this state.

(3) ~~((Any))~~ Tax, penalty, or interest erroneously or illegally collected or paid.

(4) ~~((Any))~~ Taxes previously paid on all special fuel which is lost or destroyed, while ~~((applicant))~~ the licensee shall be the owner thereof, through fire, lightning, flood, wind storm, or explosion.

(5) ~~((Any))~~ Taxes previously paid on all special fuel of five hundred gallons or more which is lost or destroyed while ~~((applicant))~~ the licensee shall be the owner thereof, through leakage or other casualty except evaporation, shrinkage, or unknown causes.

(6) ~~((Any))~~ Taxes previously paid on special fuel that is inadvertently mixed with dyed special fuel.

Recovery for such loss or destruction under either subsection (4), (5), or (6) of this section must be susceptible to positive proof thereby enabling the department to conduct such investigation and require such information as ~~((they))~~ it may deem necessary. In the event that the department is not satisfied that the fuel was lost, destroyed, or contaminated as claimed because information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, ~~((they))~~ it may deem such as sufficient cause to deny all right relating to the refund or credit for the excise tax paid on special fuel alleged to be lost or destroyed.

No refund or claim for credit shall be approved by the department unless the gallons of special fuel claimed as nontaxable satisfy the conditions specifically set forth in this section and the nontaxable event or use occurred during the period covered by the refund claim. Refunds or claims for credit ~~((by sellers or users of special fuel))~~ shall not be allowed for anticipated nontaxable use or events.

Sec. 30. RCW 82.38.270 and 2003 c 358 s 14 are each amended to read as follows:

(1) It is unlawful for a person or corporation to:

(a) Have dyed diesel in the fuel supply tank of a vehicle that is licensed or required to be licensed for highway use or maintain dyed diesel in bulk storage for highway use, unless the person or corporation maintains an uncanceled dyed diesel user license or is otherwise exempted by this chapter;

(b) Evade a tax or fee imposed under this chapter;

(c) File a false statement of a material fact on a special fuel license application or special fuel refund application;

(d) Act as a special fuel importer, special fuel blender, or special fuel supplier unless the person holds an uncanceled special fuel license issued by the department authorizing the person to engage in that business;

(e) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(f) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering special fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons.

(2)(a) A single violation of subsection (1)(a) of this section is a gross misdemeanor under chapter 9A.20 RCW.

(b) Multiple violations of subsection (1)(a) of this section and violations of subsection (1)(b) through (f) of this section are a class C felony under chapter 9A.20 RCW.

(3) In addition to other penalties and remedies provided by law, the court shall order a person or corporation found guilty of violating subsection (1)(b) through (f) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded, to the multimodal transportation account of the state.

(4) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax on the due date as prescribed in this chapter is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department

the tax imposed by this chapter is personally liable to the state for the amount of the tax.

Sec. 31. RCW 82.38.310 and 1995 c 320 s 3 are each amended to read as follows:

((The department of licensing may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding the imposition, collection, and use of this state's special fuel tax, or the budgeting or use of moneys in lieu thereof; upon terms substantially the same as those in the consent decree entered by the federal district court (Eastern District of Washington) in *Confederated Tribes of the Colville Reservation v. DOL, et al.*, District Court No. CY 92-248-JLO.)) (1) The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding special fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed by the tribe to operate a retail station located on reservation or trust property. The agreement may provide mutually agreeable means to address any tribal immunities or any preemption of the state special fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on the effective date of this act. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on the effective date of this act.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all special fuel only from persons or companies operating lawfully in accordance with this chapter as a special fuel distributor, supplier, importer, or blender, or from a tribal distributor, supplier, importer, or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of special fuel purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement shall be deemed personal information under RCW 42.56.230(3)(b) and exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing shall prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes.

Sec. 32. RCW 82.38.320 and 1998 c 176 s 83 are each amended to read as follows:

(1) An international fuel tax agreement licensee who meets the qualifications in subsection (2) of this section may be given special authorization by the department to purchase special fuel delivered into bulk storage without payment of the special fuel tax at the time the fuel is purchased. The special authorization applies only to full

truck-trailer loads filled at a terminal rack and delivered directly to the bulk storage facilities of the special authorization holder. The licensee shall pay special fuel tax on the fuel at the time the licensee files their international fuel tax agreement tax return and accompanying schedule with the department. The accompanying schedule shall be provided in a form and manner determined by the department and shall contain information on purchases and usage of all nondyed special fuel purchased during the reporting period. In addition, by the fifteenth day of the month following the month in which fuel under the special authorization was purchased, the licensee must report to the department, the name of the seller and the number of gallons purchased for each purchase of such fuel, and any other information as the department may require.

(2) To receive or maintain special authorization under subsection (1) of this section, the following conditions regarding the international fuel tax agreement licensee must apply:

(a) During the period encompassing the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year, the number of gallons consumed outside the state of Washington as reported on the licensee's international fuel tax agreement tax returns must have been equal to at least twenty percent of the nondyed special fuel gallons, including fuel used on-road and off-road, purchased by the licensee in the state of Washington, as reported on the accompanying schedules required under subsection (1) of this section;

(b) The licensee must have been licensed under the provisions of the international fuel tax agreement during each of the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year; and

(c) The licensee has not violated the reporting requirements of this section.

(3) Only a licensed special fuel supplier or special fuel importer may sell special fuel to a special authorization holder in the manner prescribed by this section.

~~(4) A special fuel ((distributor)) supplier or importer who sells special fuel under the special authorization provisions of this section is not liable for the special fuel tax on the fuel. ((By the fifteenth day of the month following the month in which the fuel was sold, the special fuel distributor shall report to the department, the name and special authorization number of the purchaser and the number of gallons sold for each purchase of such special fuel, and any other information as the department may require.)) The special fuel supplier or importer will report such sales, in a manner prescribed by the department, at the time the special fuel supplier or importer submits the monthly tax report.~~

~~((4) A supplier selling special fuel under the provisions of this section shall not be responsible for taxes due for special fuel purchased under the provisions of this section.~~

~~(5) An international fuel tax agreement licensee who qualifies for a special authorization under this section for calendar year 1999 is not subject to the special fuel user requirements of RCW 82.38.289-))~~

NEW SECTION. Sec. 33. A new section is added to chapter 82.38 RCW to read as follows:

It is the intent and purpose of this chapter that the tax shall be imposed at the time and place of the first taxable event and upon the first taxable person within this state. Any person whose activities would otherwise require payment of the tax imposed by RCW 82.38.030 but who is exempt from the tax nevertheless has a precollection obligation for the tax that must be imposed on the first taxable event within this state. Failure to pay the tax with respect to

a taxable event shall not prevent tax liability from arising by reason of a subsequent taxable event.

NEW SECTION. Sec. 34. The following acts or parts of acts are each repealed:

(1) RCW 82.36.042 (Notice by supplier of distributor's failure to pay tax--License suspension--Notice to suppliers--Revocation or suspension upon continued noncompliance) and 1998 c 176 s 14;

(2) RCW 82.36.273 (Refunds to licensee for fuel purchased by exempt person--Exception--Invoice or proof) and 1998 c 176 s 35;

(3) RCW 82.36.305 (Refunds to dealer delivering fuel exclusively for marine use--Limitations--Supporting certificate) and 1965 ex.s. c 79 s 12 & 1961 c 15 s 82.36.305;

(4) RCW 82.36.360 (Separate invoices for nontaxed fuel) and 1961 c 15 s 82.36.360;

(5) RCW 82.36.373 (Refund for worthless accounts receivable--Rules--Apportionment after receipt) and 1998 c 176 s 43;

(6) RCW 82.36.407 (Tax liability of user--Payment--Exceptions) and 1998 c 176 s 48;

(7) RCW 82.38.070 (Credit for sales for which no consideration was received--Report--Adjustment) and 1998 c 176 s 58, 1990 c 250 s 83, & 1971 ex.s. c 175 s 8;

(8) RCW 82.38.071 (Refund for worthless accounts receivable--Rules--Apportionment after receipt) and 1998 c 176 s 59;

(9) RCW 82.38.081 (Exemptions--Motor vehicle fuel used for racing) and 1998 c 115 s 6;

(10) RCW 82.38.185 (Refunds--Tax paid purchased by exempt person--Application) and 1998 c 176 s 73;

(11) RCW 82.38.285 (Tax liability of user--Exceptions) and 1998 c 176 s 81; and

(12) RCW 82.38.165 (Notice by supplier of distributor's failure to pay tax--License suspension--Notice to suppliers--Revocation or suspension upon continued noncompliance) and 1998 c 176 s 69.

NEW SECTION. Sec. 35. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 36. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

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

The amendment was adopted.

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

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

Representative Ericksen spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5272, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5272, as amended by the House and the bill passed the House by the following vote: Yeas - 88, Nays - 10, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 88.

Voting nay: Representatives Anderson, Buri, Ericksen, Kretz, Kristiansen, McDonald, Orcutt, Pearson, Rodne and Sump - 10.

SENATE BILL NO. 5272, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, the Rules Committee was relieved of ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5799, and the bill was placed on the Second Reading calendar.

MESSAGE FROM THE SENATE

April 16, 2007

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5174 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

There being no objection, the House receded from its amendment to SUBSTITUTE SENATE BILL NO. 5174 and placed the bill on final passage without the House's amendment.

FINAL PASSAGE OF SENATE BILL WITHOUT HOUSE AMENDMENT

Representatives Dunshee and Alexander spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute Senate Bill No. 5174, without the amendment by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5174, without House amendment and the bill passed the House by the following vote: Yeas - 95, Nays - 3, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 95.

Voting nay: Representatives Appleton, Curtis and Roberts - 3.

SUBSTITUTE SENATE BILL NO. 5174, without House amendment having received the constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on SUBSTITUTE SENATE BILL NO. 5174.

SHERRY APPLETON, 23rd District

MESSAGE FROM THE SENATE

April 21, 2007

Mr. Speaker:

The President has signed:

SUBSTITUTE SENATE BILL NO. 5085,
SUBSTITUTE SENATE BILL NO. 5097,
SUBSTITUTE SENATE BILL NO. 5288,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5311,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5312,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5317,
SUBSTITUTE SENATE BILL NO. 5340,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5372,
SENATE BILL NO. 5434,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5557,
SUBSTITUTE SENATE BILL NO. 5830,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5841,
SUBSTITUTE SENATE BILL NO. 5882,
SECOND SUBSTITUTE SENATE BILL NO. 5955,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6032,

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6044,
ENGROSSED SUBSTITUTE SENATE JOINT RESOLUTION NO. 8206,
and the same are herewith transmitted.

Brad Hendrickson, Deputy Secretary

MESSAGE FROM THE SENATE

April 21, 2007

Mr. Speaker:

The Senate has passed SUBSTITUTE SENATE BILL
NO. 6156, and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

INTRODUCTION & FIRST READING

SSB 6156 by Senate Committee on Ways & Means
(originally sponsored by Senator Prentice)

AN ACT Relating to state government; authorizing
community preservation and development authorities; and
adding a new chapter to Title 43 RCW.

There being no objection, SUBSTITUTE SENATE BILL
NO. 6156 was read the first time, the rules were suspended and
the bill was placed on the Second Reading calendar.

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

SECOND READING

**HOUSE BILL NO. 2391, By Representatives
Fromhold, Conway and Moeller**

**Eliminating retirement system gain-sharing and
providing alternate pension benefits.**

The bill was read the second time.

With the consent of the House, amendments (869) and
(870) were withdrawn.

Representative Conway moved the adoption of
amendment (937):

Strike everything after the enacting clause and insert the
following:

"**Sec. 1.** RCW 41.31A.020 and 2003 c 294 s 4 are each
amended to read as follows:

(1) On January 1, 2004, and on January 1st of even-numbered
years thereafter, the member account of a person meeting the
requirements of this section shall be credited by the extraordinary
investment gain amount.

(2) The following persons, hired prior to July 1, 2007, shall be
eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the teachers' retirement system plan 3, the
Washington school employees' retirement system plan 3, or the
public employees' retirement system plan 3 who earned service credit
during the twelve-month period from September 1st to August 31st
immediately preceding the distribution and had a balance of at least
one thousand dollars in their member account on August 31st of the
year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to RCW
41.32.875, 41.35.680, or 41.40.820; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8)
and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service
months after attaining age fifty-four; or

(d) Any teacher who is a retiree pursuant to RCW 41.34.020(8)
and who has completed five service credit years by July 1, 1996,
under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

(e) Any classified employee who is a retiree pursuant to RCW
41.34.020(8) and who has completed five service credit years by
September 1, 2000, and who transferred to plan 3 under RCW
41.35.510; or

(f) Any public employee who is a retiree pursuant to RCW
41.34.020(8) and who has completed five service credit years by
March 1, 2002, and who transferred to plan 3 under RCW 41.40.795;
or

(g) Any person who had a balance of at least one thousand
dollars in their member account on August 31st of the year
immediately preceding the distribution and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service
months after attaining age fifty-four; or

(h) Any teacher who had a balance of at least one thousand
dollars in their member account on August 31st of the year
immediately preceding the distribution and who has completed five
service credit years by July 1, 1996, under plan 2 and who transferred
to plan 3 under RCW 41.32.817; or

(i) Any classified employee who had a balance of at least one
thousand dollars in their member account on August 31st of the year
immediately preceding the distribution and who has completed five
service credit years by September 1, 2000, and who transferred to
plan 3 under RCW 41.35.510; or

(j) Any public employee who had a balance of at least one
thousand dollars in their member account on August 31st of the year
immediately preceding the distribution and who has completed five
service credit years by March 1, 2002, and who transferred to plan 3
under RCW 41.40.795.

(3) The extraordinary investment gain amount shall be
calculated as follows:

(a) One-half of the sum of the value of the net assets held in trust
for pension benefits in the teachers' retirement system combined plan
2 and 3 fund, the Washington school employees' retirement system
combined plan 2 and 3 fund, and the public employees' retirement
system combined plan 2 and 3 fund at the close of the previous state
fiscal year not including the amount attributable to member accounts;

(b) Multiplied by the amount which the compound average of
investment returns on those assets over the previous four state fiscal
years exceeds ten percent;

(c) Multiplied by the proportion of:

(i) The sum of the service credit on August 31st of the previous year of all persons eligible for the benefit provided in subsection (1) of this section; to

(ii) The sum of the service credit on August 31st of the previous year of:

(A) All persons eligible for the benefit provided in subsection (1) of this section;

(B) Any person who earned service credit in the teachers' retirement system plan 2, the Washington school employees' retirement system plan 2, or the public employees' retirement system plan 2 during the twelve-month period from September 1st to August 31st immediately preceding the distribution;

(C) Any person in receipt of a benefit pursuant to RCW 41.32.765, 41.35.420, or 41.40.630; and

(D) Any person with five or more years of service in the teachers' retirement system plan 2, the Washington school employees' retirement system plan 2, or the public employees' retirement system plan 2;

(d) Divided proportionally among persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31st of the previous year.

(4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.

Sec. 2. RCW 41.32.765 and 2000 c 247 s 902 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

<u>Retirement Age</u>	<u>Percent Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>

<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.32.802(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.32.800(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 2, chapter . . . (this act), Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

Sec. 3. RCW 41.32.835 and 1995 c 239 s 105 are each amended to read as follows:

(1) All teachers who first become employed by an employer in an eligible position on or after July 1, ~~((1996, shall be members of plan 3))~~ 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

(3) The plan choice provision as set forth in section 3, chapter . . . (this act), Laws of 2007 was intended by the legislature as a replacement benefit for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to plan

choice under this section is noncontractual, and the legislature reserves the right to amend or repeal this section. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, all teachers who first become employed by an employer in an eligible position on or after July 1, 2007, may choose either plan 2 or plan 3 under this section. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then all teachers who first become employed by an employer in an eligible position on or after the date of such reinstatement shall be members of plan 3.

Sec. 4. RCW 41.32.875 and 2006 c 33 s 1 are each amended to read as follows:

(1) **NORMAL RETIREMENT.** Any member who is at least age sixty-five and who has:

- (a) Completed ten service credit years; or
- (b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or
- (c) Completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(2) **EARLY RETIREMENT.** Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) **ALTERNATE EARLY RETIREMENT.**

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

<u>Retirement Age</u>	<u>Percent Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>

<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.32.862(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.32.860(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 4, chapter . . . (this act), Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

NEW SECTION. Sec. 5. A new section is added to chapter 41.32 RCW under the subchapter heading "plan 1" to read as follows:

(1) Beginning July 1, 2009, the annual increase amount as defined in RCW 41.32.010(46) shall be increased by an amount equal to \$0.40 per month per year of service minus the 2008 gain-sharing increase amount under RCW 41.31.010 as it exists on the effective date of this section. This adjustment shall not decrease the annual increase amount, and is not to exceed \$0.20 per month per year of service. The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has the contractual right to receive this adjustment to the annual increase amount not granted prior to that time.

(2) The adjustment to the annual increase amount as set forth in section 5, chapter . . . (this act), Laws of 2007 was intended by the legislature as a replacement benefit for gain-sharing. If the repeal of chapter 41.31 RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then this adjustment to the annual increase amount shall not be included in future annual increase amounts paid on or after the date of such reinstatement.

Sec. 6. RCW 41.35.420 and 2000 c 247 s 905 are each amended to read as follows:

(1) **NORMAL RETIREMENT.** Any member with at least five service credit years who has attained at least age sixty-five shall be

eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.35.060(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.35.230(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 6, chapter . . . (this act), Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme

court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

Sec. 7. RCW 41.35.610 and 1998 c 341 s 202 are each amended to read as follows:

(1) All classified employees who first become employed by an employer in an eligible position on or after ~~((September 1, 2000, shall be members of plan 3))~~ July 1, 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

(3) The plan choice provision as set forth in section 7, chapter . . . (this act), Laws of 2007 was intended by the legislature as a replacement benefit for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to plan choice under this section is noncontractual, and the legislature reserves the right to amend or repeal this section. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, all classified employees who first become employed by an employer in an eligible position on or after July 1, 2007, may choose either plan 2 or plan 3 under this section. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then all classified employees who first become employed by an employer in an eligible position on or after the date of such reinstatement shall be members of plan 3.

Sec. 8. RCW 41.35.680 and 2006 c 33 s 2 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

- (a) Completed ten service credit years; or
- (b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or
- (c) Completed five service credit years by September 1, 2000, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.35.510; shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

<u>Retirement Age</u>	<u>Percent Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.35.060(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.35.230(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 8, chapter . . . (this act), Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal

of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

Sec. 9. RCW 41.40.630 and 2000 c 247 s 901 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after July 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

<u>Retirement Age</u>	<u>Percent Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.40.037(2)(d) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar

compensated relationship with any employer included under the provisions of RCW 41.40.690(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 9, chapter . . . (this act), Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

Sec. 10. RCW 41.40.820 and 2006 c 33 s 3 are each amended to read as follows:

(1) **NORMAL RETIREMENT.** Any member who is at least age sixty-five and who has:

- (a) Completed ten service credit years; or
- (b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or
- (c) Completed five service credit years by the transfer payment date specified in RCW 41.40.795, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.40.795;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790.

(2) **EARLY RETIREMENT.** Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) **ALTERNATE EARLY RETIREMENT.**

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after July 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

<u>Retirement Age</u>	<u>Percent Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.40.037(2)(d) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.40.850(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 10, chapter . . . (this act), Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

NEW SECTION. Sec. 11. A new section is added to chapter 41.40 RCW under the subchapter heading "plan 1" to read as follows:

(1) Beginning July 1, 2009, the annual increase amount as defined in RCW 41.40.010(41) shall be increased by an amount equal to \$0.40 per month per year of service minus the 2008 gain-sharing increase amount under RCW 41.31.010 as it exists on the effective date of this section. This adjustment shall not decrease the annual increase amount, and is not to exceed \$0.20 per month per year of service. The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has the contractual right to receive this adjustment to the annual increase amount not granted prior to that time.

(2) The adjustment to the annual increase amount as set forth in section 11, chapter . . . (this act), Laws of 2007 was intended by the legislature as a replacement benefit for gain-sharing. If the repeal of chapter 41.31 RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then this adjustment to the annual increase amount shall not be included in future annual increase amounts paid on or after the date of such reinstatement.

Sec. 12. RCW 41.45.070 and 2006 c 94 s 3 are each amended to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or 41.45.054, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, public safety employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsections (6) ~~((and))~~, (7), and (9) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic member, employer, and state contribution rate established in RCW 41.45.0604 for the law enforcement officers' and firefighters' retirement system plan 2, the department shall also establish supplemental rates to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and firefighters' retirement system plan 2. Except as provided in subsection (6) of this section, these supplemental rates shall be calculated by the actuary retained by the law enforcement officers' and firefighters' board and the state actuary through the process provided in RCW 41.26.720(1)(a) and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan 2 and plan 3, the teachers' retirement system plan 2 and plan 3, the public safety employees' retirement system plan 2, or the school employees' retirement system plan 2 and plan 3 shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

(8) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members and survivors pursuant to chapter 94, Laws of 2006.

(9) A supplemental rate shall not be charged to pay for the cost of the additional benefits granted to members of the teachers' retirement system and the school employees' retirement system plans 2 and 3 in sections 2, 4, 6, and 8 of this act until September 1, 2008. A supplemental rate shall not be charged to pay for the cost of the additional benefits granted to members of the public employees' retirement system plans 2 and 3 under sections 9 and 10 of this act until July 1, 2008.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed, effective January 2, 2008:

(13) RCW 41.31.010 (Annual pension increases--Increased by gain-sharing increase amount) and 1998 c 340 s 1;

(14) RCW 41.31.020 (Gain-sharing increase amount calculated) and 1998 c 340 s 2;

(15) RCW 41.31.030 (Contractual right to increase not granted) and 1998 c 340 s 3;

(16) RCW 41.31A.010 (Definitions) and 2000 c 247 s 407 & 1998 c 341 s 311;

(17) RCW 41.31A.020 (Extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted) and 2003 c 294 s 4, 2000 c 247 s 408, & 1998 c 341 s 312;

(18) RCW 41.31A.030 (Retroactive extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted) and 1998 c 341 s 313; and

(19) RCW 41.31A.040 (Retroactive extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted) and 2000 c 247 s 409.

NEW SECTION. Sec. 14. If any part of this act is found to be in conflict with a final determination by the federal internal revenue service that is a prescribed condition to favorable tax treatment of one or more of the retirement plans, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the individual members directly affected. This finding does not affect the operation of the remainder of this act in its application to the members concerned. The legislature reserves the right to amend or repeal this act in the future as may be required to comply with a final federal determination that amendment or repeal is necessary to maintain the favorable tax treatment of a plan.

NEW SECTION. Sec. 15. The new benefits provided pursuant to sections 2(3)(b), 4(3)(b), 6(3)(b), and 8(3)(b) of this act are not provided to employees as a matter of contractual right prior to September 1, 2008, and will not become a contractual right thereafter if the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law. The legislature retains the right to alter or abolish these benefits at any time prior to September 1, 2008.

NEW SECTION. Sec. 16. The new benefits provided pursuant to sections 9(3)(b) and 10(3)(b) of this act are not provided to

employees as a matter of contractual right prior to July 1, 2008, and will not become a contractual right thereafter if the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 2008.

NEW SECTION. Sec. 17. Any action brought under this act must be commenced within three years after the effective date of this section.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 19. Sections 1, 3, and 7 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2007."

Correct the title.

Representatives Conway and Alexander spoke in favor of the adoption of the amendment.

The Speaker (Representative Lovick presiding) was undecided and divided the House. The result was 56 - YEAS; 42 -NAYS.

The amendment was adopted. The bill was ordered engrossed.

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

Representatives Sommers, Conway and Kessler spoke in favor of passage of the bill.

Representative Alexander, Armstrong, Orcutt, Bailey, McCune and Chase spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2391.

MOTION

On motion of Representative Schindler, Representative Roach was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2391 and the bill passed the House by the following vote: Yeas - 52, Nays - 45, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Blake, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy,

Eickmeyer, Ericks, Flannigan, Goodman, Grant, Green, Haigh, Haler, Hankins, Hudgins, Hunt, Hunter, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Santos, Seaquist, Sommers, Springer, Sullivan, P., Takko, Upthegrove, Walsh, Wood and Mr. Speaker - 52.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Barlow, Buri, Campbell, Chandler, Chase, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Fromhold, Hailey, Hasegawa, Hinkle, Hurst, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Rodne, Rolfes, Ross, Schindler, Schual-Berke, Sells, Simpson, Skinner, Strow, Sullivan, B., Sump, Van De Wege, Wallace, Warnick and Williams - 45.

Excused: Representative Roach - 1.

ENGROSSED HOUSE BILL NO. 2391, having received the necessary constitutional majority, was declared passed.

MESSAGES FROM THE SENATE

April 21, 2007

Mr. Speaker:

The President has signed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5930, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 21, 2007

Mr. Speaker:

The Senate concurred in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5269, and passed the bill as amended by the House, and the same is herewith transmitted.

Thomas Hoemann, Secretary

SECOND READING

SUBSTITUTE SENATE BILL NO. 6156, By Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

Relating to state government.

The bill was read the second time.

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

Representative Santos spoke in favor of passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6156.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6156 and the bill passed the House by the following vote: Yeas - 63, Nays - 34, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood, and Mr. Speaker - 63.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Hailey, Haler, Hankins, Hinkle, Hurst, Kretz, Kristiansen, McCune, McDonald, Morris, Newhouse, Orcutt, Pearson, Priest, Rodne, Ross, Schindler, Skinner, Strow, Sump, and Warnick - 34.

Excused: Representative Roach - 1.

SUBSTITUTE SENATE BILL NO. 6156, having received the necessary constitutional majority, was declared passed.

REPORT OF CONFERENCE COMMITTEE

April 21, 2007

Mr. Speaker:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE SENATE BILL NO. 5339, authorizing the acquisition and operation of tourism-related facilities by port districts, have had the same under consideration and we recommend that:

All previous amendments not be adopted and that the attached striking amendment (H-3669.2/07) be adopted

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 53.08.255 and 1984 c 122 s 10 are each amended to read as follows:

(1) Any port district in this state, acting through its commission, has power to expend moneys and conduct promotion of resources and facilities in the district or general area by advertising, publicizing, or otherwise distributing information to attract visitors and encourage tourist expansion.

(2)(a) Any port district is authorized either individually or jointly with any other municipality, or person, or any combination thereof, to acquire and to operate tourism-related facilities.

(b) When exercising the authority granted under (a) of this subsection, a port district may exercise any of the powers granted to a municipality under RCW 67.28.120, 67.28.130 through 67.28.170, and 67.28.220, but may not exercise powers granted to municipalities under RCW 67.28.180 and 67.28.181 or other powers granted to municipalities under chapter 67.28 RCW. The definitions contained in RCW 67.28.080 apply to the exercise of authority by a port district under (a) of this subsection, and for that purpose the term "municipality" includes a port district.

(c) Port districts may not use this section as the authority for the exercise of the power of eminent domain.

NEW SECTION. Sec. 2. A new section is added to chapter 67.28 RCW to read as follows:

A port district and any municipality or other entity involved in a joint venture or project with a port district under this chapter shall comply with the provisions of chapter 39.12 RCW. However, nothing in this section should be interpreted as a legislative intent to expand the application of chapter 39.12 RCW."

Correct the title.

and that the bill do pass as recommended by the Conference Committee.

Senator Kastama Representative Simpson
Senator Kilmer Representative Rolfes
Senator Zarelli Representative Curtis

With the consent of the House, the 24 hour waiting period was waived.

There being no objection, the House adopted the conference committee report on ENGROSSED SUBSTITUTE SENATE BILL NO. 5339 and passed the bill as recommended by the conference committee to final passage.

Representatives Simpson and Curtis spoke in favor of the passage of the bill as recommended by the conference committee.

Representative Upthegrove spoke against the passage of the bill as recommended by the conference committee.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute Senate Bill No. 5339 as recommended by the conference committee.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5339, as recommended by the Conference Committee and the bill passed the House by the following vote: Yeas - 83, Nays - 14, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, DeBolt, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hinkle, Hunt, Hurst, Jarrett, Kelley, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 83.

Voting nay: Representatives Chase, Darneille, Dickerson, Eddy, Hasegawa, Hudgins, Hunter, Kagi, Kenney, McDermott, McIntire, Roberts, Schual-Berke and Upthegrove - 14.

Excused: Representative Roach - 1.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5339, as recommended by the Conference Committee having received the constitutional majority, was declared passed.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6158, By Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

Concerning the biennial rebasing of nursing facility medicaid payment rates.

The bill was read the second time.

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

Representatives Cody and Alexander spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6158.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6158 and the bill passed the House by the following vote: Yeas - 94, Nays - 3, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman,

Grant, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 94.

Voting nay: Representatives Chase, Green and Simpson - 3.

Excused: Representative Roach - 1.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6158, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6157, By Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

Changing provisions affecting offenders who are leaving confinement.

The bill was read the second time.

With the consent of the House, amendments (890) through (895), (934), (897) through (903), (914) through (920), (905) through (910), (912) through (913), (922) through (924) and (925) through (933) were withdrawn.

Representative Pearson moved the adoption of amendment (904):

On page 24, line 35, after "(i)" strike "In" and insert "Except as provided in (c) of this subsection, in"

On page 26, line 23, after "(c)" insert "In the case of an offender who is convicted of an offense committed on or after the effective date of this act that occurred during confinement or while on community custody or community placement, and when the offender is participating in an individual reentry plan or has previously participated in a reentry plan, the aggregate earned release time may not exceed ten percent.

_____(d)"

Representatives Pearson, Strow and Ericksen spoke in favor of the adoption of the amendment.

Representative Dickerson spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Rodne moved the adoption of amendment (911):

On page 32, after line 19, insert the following:

"**NEW SECTION. Sec. 306.** A new section is added to chapter 9.94A RCW to read as follows:

Any offender sanctioned to total confinement under this section shall serve the entire term of the sanction in total confinement as defined in RCW 9.94A.030."

Re-number the remaining sections consecutively, correct any internal references accordingly, and correct the title.

Representatives Rodne and Buri spoke in favor of the adoption of the amendment.

Representative Ericks spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Dickerson moved the adoption of amendment (936):

On page 35, line 9, after "deductions" strike "and by creating a loan program"

On page 42, beginning on line 9, after "programming" strike all material through "this act" on line 11

On page 42, line 30 after "department;" insert "or"

On page 42, beginning on line 34, after "chapter" strike all material through "program" on page 43, line 15

Re-number the subsections consecutively and correct the internal references accordingly.

On page 46, beginning on line 15, strike all of section 405

Re-number the sections consecutively, correct the internal references accordingly, and correct the title.

Representatives Dickerson and Ross spoke in favor of the adoption of the amendment.

The amendment was adopted.

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

Representatives Conway, Darneille, Kessler, Goodman and McCoy spoke in favor of passage of the bill.

Representatives Schindler, Erickson, Rodne, Pearson and Armstrong spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6157, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6157, as amended by the House and the bill passed the House by the following vote: Yeas - 64, Nays - 33, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Walsh, Williams, Wood and Mr. Speaker - 64.

Voting nay: Representatives Alexander, Anderson, Armstrong, Bailey, Barlow, Buri, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Erickson, Hailey, Haler, Hankins, Hinkle, Kretz, Kristiansen, Newhouse, Orcutt, Pearson, Priest, Rodne, Rolfes, Ross, Schindler, Skinner, Strow, Sump, Van De Wege, Wallace and Warnick - 33.

Excused: Representative Roach - 1.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6157, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, HOUSE BILL NO. 2101 was returned to the Rules Committee.

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

There being no objection, the House adjourned until 11:00 a.m., April 22, 2007, the 105th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

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