

NINETY-SIXTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, April 13, 2007

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Kauffman, Pflug, Poulsen and Prentice.

The Sergeant at Arms Color Guard consisting of Pages Lia Michaels and Johnny Osmundson, presented the Colors. Pastor John Shaffer of Standwood United Methodist Church offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS

March 15, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON
Ladies and Gentlemen:

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

JOHN ELLIS, reappointed July 1, 2007, for the term ending June 30, 2013, as Member of the Gambling Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce, Research & Development.

March 23, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON
Ladies and Gentlemen:

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

ELLEN TAUSSIG, appointed March 23, 2007, for the term ending March 26, 2011, as Member of the Higher Education Facilities Authority.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

April 12, 2007

MR. PRESIDENT:

The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 5193,
SENATE CONCURRENT RESOLUTION NO. 8404,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that Gubernatorial Appointment No. 9032, Robert Lenigan, as a member of the Board of Trustees, Clover Park Technical College District No. 29, be confirmed.

Senator Franklin spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Benton, Holmquist, Pflug and Zarelli were excused.

APPOINTMENT OF ROBERT LENIGAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9032, Robert Lenigan as a member of the Board of Trustees, Clover Park Technical College District No. 29.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9032, Robert Lenigan as a member of the Board of Trustees, Clover Park Technical College District No. 29 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 4; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Absent: Senators Brown, Kauffman, Poulsen and Prentice - 4

Excused: Senator Pflug - 1

Gubernatorial Appointment No. 9032, Robert Lenigan, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clover Park Technical College District No. 29.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that Gubernatorial Appointment No. 9156, Mary Moss, as a member of the Board of Trustees, Clover Park Technical College District No. 29, be confirmed.

Senator Franklin spoke in favor of the motion.

MOTION

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On motion of Senator Marr, Senators Kauffman, Keiser and Poulsen were excused.

MOTION

On motion of Senator Regala, Senator Brown was excused.

APPOINTMENT OF MARY MOSS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9156, Mary Moss as a member of the Board of Trustees, Clover Park Technical College District No. 29.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9156, Mary Moss as a member of the Board of Trustees, Clover Park Technical College District No. 29 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Absent: Senator Prentice - 1

Excused: Senators Brown, Pflug and Poulsen - 3

Gubernatorial Appointment No. 9156, Mary Moss, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clover Park Technical College District No. 29.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that Gubernatorial Appointment No. 9191, Shauna Weatherby, as a member of the Board of Trustees, Clover Park Technical College District No. 29, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF SHAUNA WEATHERBY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9191, Shauna Weatherby as a member of the Board of Trustees, Clover Park Technical College District No. 29.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9191, Shauna Weatherby as a member of the Board of Trustees, Clover Park Technical College District No. 29 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Pflug, Poulsen and Prentice - 4
Gubernatorial Appointment No. 9191, Shauna Weatherby, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clover Park Technical College District No. 29.

SECOND READING

HOUSE BILL NO. 1065, by Representatives Kelley, Morrell, Haigh, Miloscia, Hunt, Seaquist, Conway, P. Sullivan, McDonald, Haler, Moeller, B. Sullivan, Campbell and Hurst

Revising veterans' scoring criteria in examinations.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.04.010 and 2003 c 45 s 1 are each amended to read as follows:

In all competitive examinations, unless otherwise provided in this section, to determine the qualifications of applicants for public offices, positions, or employment, either the state, and all of its political subdivisions and all municipal corporations, or private companies or agencies contracted with by the state to give the competitive examinations shall give a scoring criteria status to all veterans as defined in RCW 41.04.007, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:

(1) Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 and does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(2) Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 or is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(3) Five percent to a veteran who was called to active military service for one or more years from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to ~~the first~~ promotional examinations until the first promotion only;

(4) All veterans' scoring criteria may be claimed upon release from active military service."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to House Bill No. 1065.

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

MOTION

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

On page 1, line 1 of the title, after "examinations;" strike the remainder of the title and insert "and amending RCW 41.04.010."

MOTION

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On motion of Senator Hobbs, the rules were suspended, House Bill No. 1065 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1065 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1065 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Pflug, Poulsen and Prentice - 4

HOUSE BILL NO. 1065 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Ms. Marjorie McDonald and Ms. Alice Russell, the mother-in-law and sister-in-law of Senator Brandland were seated in the gallery.

MOTION

On motion of Senator Spanel, Senator Haugen was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1583, by House Committee on Commerce & Labor (originally sponsored by Representatives Moeller, Conway, Darneille, Wood, Green, Ormsby and Morrell)

Requiring disclosure to customers of the percentage of automatic service charges paid to servers.

The measure was read the second time.

MOTION

On motion of Senator Kauffman, the rules were suspended, Substitute House Bill No. 1583 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kauffman spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1583.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1583 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr,

McAuliffe, Murray, Oemig, Parlette, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 41

Voting nay: Senators Delvin, McCaslin and Morton - 3

Excused: Senators Brown, Haugen, Pflug, Poulsen and Prentice - 5

SUBSTITUTE HOUSE BILL NO. 1583, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1293, by Representatives Cody and Sommers

Modifying insurance commissioner regulatory assessment fee provisions.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1293 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1293.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1293 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Haugen, Pflug and Poulsen - 4

HOUSE BILL NO. 1293, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6168, by Senators Berkey, Zarelli, Stevens and Shin

Studying excise tax relief for aerospace product development businesses. Revised for 1st Substitute: Concerning excise tax relief for aerospace product development businesses.

MOTIONS

On motion of Senator Berkey, Substitute Senate Bill No. 6168 was substituted for Senate Bill No. 6168 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Berkey, the rules were suspended, Substitute Senate Bill No. 6168 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6168.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6168 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Franklin, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 42

Voting nay: Senators Fairley, Fraser, Pridemore and Weinstein - 4

Excused: Senators Brown, Haugen and Poulsen - 3

SUBSTITUTE SENATE BILL NO. 6168, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2087, by House Committee on Appropriations (originally sponsored by Representatives Fromhold, Hinkle, Cody and Moeller)

Regarding the certification and recertification of health care facilities.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 2087 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2087.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2087 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brown, Haugen and Poulsen - 3

SUBSTITUTE HOUSE BILL NO. 2087, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1220, by Representatives Hurst, Kelley, Sells, Dunshee, Kenney, Lovick, McCoy, O'Brien and Simpson

Modifying provisions affecting the appointment of indeterminate sentence review board members.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.95.003 and 1997 c 350 s 2 are each amended to read as follows:

The board shall consist of a chairman and ~~((two))~~ four other members, each of whom shall be appointed by the governor with the consent of the senate. Each member shall hold office for a term of five years, and until his or her successor is appointed and qualified. The terms shall expire on April 15th of the expiration year. Vacancies in the membership of the board shall be filled by appointment by the governor with the consent of the senate. In the event of the inability of any member to act, the governor shall appoint some competent person to act in his stead during the continuance of such inability. The members shall not be removable during their respective terms except for cause determined by the superior court of Thurston county. The governor in appointing the members shall designate one of them to serve as chairman at the governor's pleasure. The appointed chairman shall serve as a fully participating board member and as the director of the agency.

The members of the board and its officers and employees shall not engage in any other business or profession or hold any other public office without the prior approval of the executive ethics board indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of appointment or employment or during their incumbency, serve as the representative of any political party on an executive committee or other governing body thereof, or as an executive officer or employee of any political committee or association. The members of the board shall each severally receive salaries fixed by the governor in accordance with the provisions of RCW 43.03.040, and in addition shall receive travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

The board may employ, and fix, with the approval of the governor, the compensation of and prescribe the duties of a ~~((secretary))~~ senior administrative officer and such officers, employees, and assistants as may be necessary, and provide necessary quarters, supplies, and equipment."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to House Bill No. 1220.

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

MOTION

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

On page 1, line 2 of the title, after "members;" strike the remainder of the title and insert "and amending RCW 9.95.003."

MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 1220 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1220 as amended by the Senate.

ROLL CALL

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The Secretary called the roll on the final passage of House Bill No. 1220 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Poulsen - 2

HOUSE BILL NO. 1220 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Rockefeller moved adoption of the following resolution:

SENATE RESOLUTION 8624

By Senators Rockefeller, Fraser, Rasmussen, Pridemore, Keiser, Swecker, Jacobsen and Hargrove

WHEREAS, Recreational boating is a beloved activity enjoyed by thousands of people in the State of Washington; and

WHEREAS, The Recreational Boating Association of Washington was incorporated as a nonprofit corporation in the State of Washington in 1956; and

WHEREAS, The Recreational Boating Association of Washington has completed 50 years of volunteer service on behalf of the boaters of the State of Washington; and

WHEREAS, The Association purchased Sucia Island from a private company in the mid 1950s and donated it to Washington State Parks to create Sucia Island Marine Park, one of the gems of the San Juan Islands and the state park system; and

WHEREAS, The Association has supported state marine parks for 50 years with its volunteer programs, infrastructure projects, and consultation; and

WHEREAS, The Association has worked for 50 years representing the interests of the boaters to the State Legislature on matters pertaining to boating; and

WHEREAS, The Association serves to disseminate boating information, including boating safety, from both the state and federal government to the boaters of Washington; and

WHEREAS, The Association serves on the Washington State Boating Safety Council; and

WHEREAS, The Association pioneered and helped pass the Washington boater safety education law requiring set minimum standards for boating safety accomplishment, course instruction, examination, and accreditation that are consistent with national standards; and

WHEREAS, Successful implementation of boater safety education will make the waters of Washington more enjoyable for boaters, swimmers, and fishermen; and

WHEREAS, Over these past 50 years, the Association has relayed its support to the Legislature for other successful boating safety legislation such as the child life jacket requirements and the ban on teak surfing, a carbon monoxide hazard;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the Recreational Boating Association of Washington for its half a century of service to the boaters of Washington and the many Association volunteers

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who have given thousands of hours of their time to further the cause of recreational boating on the waters we all love; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Recreational Boating Association of Washington.

Senators Rockefeller and Jacobsen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8624.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Recreational Boating Association who were seated in the gallery.

MOTION

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

SECOND READING

ENGROSSED HOUSE BILL NO. 1413, by Representatives Eddy, Simpson and Curtis

Changing the definition of floodway in the shoreline management act.

The measure was read the second time.

MOTION

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

On page 4, line 10, after "indicators of" strike "past flooding" and insert "flooding that occurs with reasonable regularity, although not necessarily annually"

Senator Marr spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Marr and others on page 4, line 10 to Engrossed House Bill No. 1413.

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

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed House Bill No. 1413 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

MOTION

On motion of Senator Schoesler, Senator Roach was excused.

MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

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

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ROLL CALL

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

Voting yeas: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators McAuliffe, Poulsen and Roach - 3

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

SECOND READING

HOUSE BILL NO. 2079, by Representatives McDermott, Ormsby, Williams, Simpson and Hunt

Concerning use of agency shop fees.

The measure was read the second time.

MOTION

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

On page 1, line 10, after "(2)" strike all material through "immediately." on page 2, line 1 and insert "Labor organizations may not use any fund or account where agency shop fees are commingled with other funds to make contributions or expenditures to influence an election or to operate a political committee."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, after "fees;" strike the remainder of the title and insert "and amending RCW 42.17.760."

Senators Honeyford, Clements and Holmquist spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 10 to House Bill No. 2079.

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

MOTION

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

On page 1, line 10, after "(2)" strike all material through "immediately." on page 2, line 1 and insert "An agency shop fee paying nonmember of a labor organization has a cause of action in superior court against the labor organization for wrongful use

of agency shop fees if the labor organization violates subsection (1) of this section.

(3) Upon finding that there is a violation of subsection (1) of this section, the court shall award the plaintiff damages and the costs of the suit, including investigative costs and reasonable attorneys' fees and costs. The court may impose a civil penalty not exceeding twenty-five thousand dollars for each violation and may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain further violations."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, after "fees;" strike the remainder of the title and insert "and amending RCW 42.17.760."

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

Senators Kohl-Welles and Prentice spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Clements on page 1, line 10 to House Bill No. 2079.

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

MOTION

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

On page 1, line 10, after "(2)" strike all material through "immediately." on page 2, line 1 and insert the following:

"A labor organization may use any fund or account where agency shop fees are commingled with other revenue to make contributions or expenditures to influence an election or to operate a political committee when nonmembers have been provided with a rebate of such fees that is equal to the pro-rata share of the average of all such contributions or expenditures over the preceding three years of actual reported financial information for the labor organization plus a cushion of 3 percent of the annual agency shop fee for the same three year period in order to adjust for variations caused by negligible errors in either calculations or organization expenses.

(3) "Expenditures to influence an election" includes, but is not limited to, expenditures for staff whose duties affect elections or have the responsibility of training other staff or volunteers to affect elections; expenditures on communication efforts internally or externally to advance or oppose one or more candidates or ballot measures; expenditures to assist voter turn out; expenditures for staff to aid in recruiting or training candidates; expenditures for staff or materials to prepare ballot measures or recall efforts; expenditures for staff or legal services to contest election results; and donations of funds to organizations or individuals that make expenditures to influence an election.

(4) "To operate a political committee" means expenditures on staff work, promotional materials, professional services, and internal communication efforts that aid in the operation and funding of a political committee."

Renumber the sections consecutively and correct any internal references accordingly.

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On page 1, line 1 of the title, after "fees;" strike the remainder of the title and insert "and amending RCW 42.17.760."

Senator Holmquist spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist on page 1, line 10 to House Bill No. 2079.

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

MOTION

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

On page 1, after line 10, after "(2)", strike the remainder of the bill and insert the following:

"The following definitions apply to this section.

(a) "Agency shop fees" are fees paid by nonmember employees to a labor organization for the costs related to collective bargaining, contract administration, and activity related to matters affecting wages, hours, and other conditions of employment done by the labor organization on behalf of all employees.

(b) "Affirmatively authorized" means that the nonmember signed a declaration within the twelve month period prior to the expenditure indicating consent to the labor organization's use of the fees to influence an election."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Holmquist spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist on page 1, after line 10 to House Bill No. 2079.

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

MOTION

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

On page 1, line 13, after "expenditures." insert:

"**Sec. 2.** RCW 41.59.100 and 1975 1st ex.s. c 288 s 11 are each amended to read as follows:

A collective bargaining agreement may include union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. All union security provisions must safeguard the right of nonassociation of employees based on bona fide personally held religious beliefs, or on the tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to ~~((a))~~ any nonreligious charity or ~~((to another))~~ charitable organization

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~~registered with the secretary of state. ((mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization:))"~~

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, after "RCW" insert "41.59.100 and"

Senator Benton spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

Senator Zarelli spoke in favor of adoption of the amendment.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 1, line 13 to House Bill No. 2079.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Benton and the amendment was not adopted by the following vote: Yeas, 19; Nays, 28; Absent, 2; Excused, 0.

Voting yea: Senators Benton, Brandland, Clements, Delvin, Hargrove, Hewitt, Holmquist, Honeyford, Kastama, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 19

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jacobsen, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 28

Absent: Senators Carrell and Kauffman - 2

MOTION

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

On page 1, at the beginning of line 14, strike all of section 2, and insert the following:

"NEW SECTION. Sec. 2. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 2 after "and" strike the remainder of the title and insert "providing for submission of this act to a vote of the people."

Senators Schoesler, Holmquist and Benton spoke in favor of adoption of the amendment.

MOTION

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On motion of Senator Brandland, Senator Carrell was excused.

Senators Jacobsen and Kohl-Welles spoke against adoption of the amendment.

Senator Benton demanded a roll call.

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

Senator Keiser spoke against the adoption of the amendment.

Senator Sheldon spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 1, line 14 to House Bill No. 2079.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Schoesler and the amendment was not adopted by the following vote: Yeas, 17; Nays, 32; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Brandland, Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 17

Voting nay: Senators Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 32

MOTION

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

On page 1, at the beginning of line 14, strike all of section 2.

Re-number the sections consecutively and correct any internal references accordingly.

On page 1, line 1 after "fees;" strike the remainder of the title and insert "and amending RCW 42.17.760"

Senators Honeyford, Holmquist and Sheldon spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

MOTION

On motion of Senator Brandland, Senator Parlette was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 14 to House Bill No. 2079.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

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"Sec. 1. RCW 28B.52.045 and 1987 c 314 s 8 are each amended to read as follows:

(1) Upon filing with the employer the voluntary written authorization of a bargaining unit employee under this chapter, the employee organization which is the exclusive bargaining representative of the bargaining unit shall have the right to have deducted from the salary of the bargaining unit employee the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. Such employee authorization shall not be irrevocable for a period of more than one year. Such dues and fees shall be deducted from the pay of all employees who have given authorization for such deduction, and shall be transmitted by the employer to the employee organization or to the depository designated by the employee organization.

(2) A collective bargaining agreement may include union security provisions, but not a closed shop. If an agency shop or other union security provision is agreed to, the employer shall enforce any such provision by deductions from the salary of bargaining unit employees affected thereby and shall transmit such funds to the employee organization or to the depository designated by the employee organization.

(3) A union security provision in a collective bargaining agreement is not permitted and ceases to be binding unless the employee organization that is the exclusive bargaining representative of employees covered by a union security provision permitted in this chapter and any affiliated organization collecting dues, fees, or assessments pursuant to a union security provision:

(a) Provides each employee with annual written notice, separate from any other publication, conspicuously explaining the affected employees' right to decline membership in the union and the process for paying a work place representation fee, the services the bargaining agent will provide for that fee, and the process for receiving any funds collected as agency fees but not used for purposes germane to the collective bargaining process or to contract administration;

(b) Provides each employee with annual written notice, separate from any other publication, conspicuously explaining that employees have a right of nonassociation when based upon bona fide religious tenets or teachings of a church or religious body of which such employee is a member, and the process for exercising this right;

(c) Provides each employee with an annual written notice specifying the financial information the exclusive bargaining representative or affiliated organization will make available to the affected employee upon request. Any exclusive bargaining representative with annual receipts of two hundred thousand dollars or more shall, on request by an affected employee, provide the employee with detailed and timely information as specified in rule by the commission on at least the following:

(i) Salary, the cost of fringe benefits, allowances, and other direct or indirect disbursements to each officer of the exclusive bargaining representative and to the support staff, as well as all contributions to state or national affiliates and any official or employee thereof;

(ii) All income received or the value of services furnished to an exclusive bargaining representative by either a parent affiliated labor organization or by any other labor organization on behalf of the exclusive bargaining representative; and

(iii) An itemization of the total amount spent by the exclusive bargaining representative for such items as contract negotiation and administration, organizing activities, labor dispute activities, public relations activities, political activities, voter education and issue advocacy activities, contributions to charitable, nonprofit, or community organizations, and travel expenses;

(d) Permits all members of the bargaining unit equal ability to affect decisions related to work place representation; and

(e) Does not expend or divert funds collected as work place representation dues or fees to make contributions or

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expenditures to influence an election or to operate a political committee, unless an assessment for such use is affirmatively authorized by an affected employee. Such authorized assessments must be segregated from dues and fees collected pursuant to the collective bargaining agreement and reported pursuant to RCW 42.17.040.

(4) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall either have his or her right accommodated by the reduction or waiver of the representation fees, or pay to a nonreligious charity or other charitable organization an amount of money equivalent to ((the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative)) a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment. The charity shall be agreed upon by the employee and the employee organization to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payments have been made. If the employee and the employee organization do not reach agreement on such matter, the commission shall designate the charitable organization. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.

Sec. 2. RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each amended to read as follows:

A collective bargaining agreement may:

(1) Contain union security provisions: PROVIDED, That nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall either have his or her right accommodated by the reduction or waiver of the representation fees, or pay an amount of money equivalent to ((regular union dues and initiation fee)) a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. ((When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.)) The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.

(2) Provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement.

Sec. 3. RCW 41.76.045 and 2002 c 356 s 12 are each amended to read as follows:

(1) Upon filing with the employer the voluntary written authorization of a bargaining unit faculty member under this chapter, the employee organization which is the exclusive bargaining representative of the bargaining unit shall have the right to have deducted from the salary of the bargaining unit faculty member the periodic dues and initiation fees uniformly

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required as a condition of acquiring or retaining membership in the exclusive bargaining representative. Such employee authorization shall not be irrevocable ((for a period of more than one year)). Such dues and fees shall be deducted from the pay of all faculty members who have given authorization for such deduction, and shall be transmitted by the employer to the employee organization or to the depository designated by the employee organization.

(2) A collective bargaining agreement may include union security provisions, but not a closed shop. If an agency shop or other union security provision is agreed to, the employer shall enforce any such provision by deductions from the salary of bargaining unit faculty members affected thereby and shall transmit such funds to the employee organization or to the depository designated by the employee organization.

(3) A union security provision in a collective bargaining agreement is not permitted and ceases to be binding unless the employee organization that is the exclusive bargaining representative of employees covered by a union security provision permitted in this chapter and any affiliated organization collecting dues, fees, or assessments pursuant to a union security provision:

(a) Provides each faculty member with annual written notice, separate from any other publication, conspicuously explaining the affected faculty members' right to decline membership in the union and the process for paying a work place representation fee, the services the bargaining agent will provide for that fee, and the process for receiving any funds collected as agency fees but not used for purposes germane to the collective bargaining process or to contract administration;

(b) Provides each faculty member with annual written notice, separate from any other publication, conspicuously explaining that faculty members have a right of nonassociation when based upon bona fide religious tenets or teachings of a church or religious body of which such faculty member is a member, and the process for exercising this right;

(c) Provides each employee with an annual written notice specifying the financial information the exclusive bargaining representative or affiliated organization will make available to the affected employee upon request. Any exclusive bargaining representative with annual receipts of two hundred thousand dollars or more shall, on request by an affected employee, provide the employee with detailed and timely information as specified in rule by the commission on at least the following:

(i) Salary, the cost of fringe benefits, allowances, and other direct or indirect disbursements to each officer of the exclusive bargaining representative and to the support staff, as well as all contributions to state or national affiliates and any official or employee thereof;

(ii) All income received or the value of services furnished to an exclusive bargaining representative by either a parent affiliated labor organization or by any other labor organization on behalf of the exclusive bargaining representative; and

(iii) An itemization of the total amount spent by the exclusive bargaining representative for such items as contract negotiation and administration, organizing activities, labor dispute activities, public relations activities, political activities, voter education and issue advocacy activities, contributions to charitable, nonprofit, or community organizations, and travel expenses;

(d) Permits all members of the bargaining unit equal ability to affect decisions related to work place representation; and

(e) Does not expend or divert funds collected as work place representation dues or fees to make contributions or expenditures to influence an election or to operate a political committee, unless an assessment for such use is affirmatively authorized by an affected faculty member. Such authorized assessments must be segregated from dues and fees collected pursuant to the collective bargaining agreement and reported pursuant to RCW 42.17.040.

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(4) A faculty member who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such faculty member is a member shall either have his or her right accommodated by the reduction or waiver of the representation fees, or pay to a nonreligious charity or other charitable organization an amount of money equivalent to ((the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative)) a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment. The charity shall be agreed upon by the faculty member and the employee organization to which such faculty member would otherwise pay the dues and fees. The faculty member shall furnish written proof that such payments have been made. If the faculty member and the employee organization do not reach agreement on such matter, the dispute shall be submitted to the commission for determination. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.

Sec. 4. RCW 41.59.100 and 1975 1st ex.s. c 288 s 11 are each amended to read as follows:

(1) A collective bargaining agreement may include union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to or less than such dues.

(2) A union security provision in a collective bargaining agreement is not permitted and ceases to be binding unless the employee organization that is the exclusive bargaining representative of employees covered by a union security provision permitted in this chapter and any affiliated organization collecting dues, fees, or assessments pursuant to a union security provision:

(a) Provides each employee with annual written notice, separate from any other publication, conspicuously explaining the affected employees' right to decline membership in the union and the process for paying a work place representation fee, the services the bargaining agent will provide for that fee, and the process for receiving any funds collected as agency fees but not used for purposes germane to the collective bargaining process or to contract administration;

(b) Provides each employee with annual written notice, separate from any other publication, conspicuously explaining that employees have a right of nonassociation when based upon bona fide religious tenets or teachings of a church or religious body of which such employee is a member, and the process for exercising this right;

(c) Provides each employee with an annual written notice specifying the financial information the exclusive bargaining representative or affiliated organization will make available to the affected employee upon request. Any exclusive bargaining representative with annual receipts of two hundred thousand dollars or more shall, on request by an affected employee, provide the employee with detailed and timely information as specified in rule by the commission on at least the following:

(i) Salary, the cost of fringe benefits, allowances, and other direct or indirect disbursements to each officer of the exclusive bargaining representative and to the support staff, as well as all contributions to state or national affiliates and any official or employee thereof;

(ii) All income received or the value of services furnished to an exclusive bargaining representative by either a parent affiliated labor organization or by any other labor organization on behalf of the exclusive bargaining representative; and

(iii) An itemization of the total amount spent by the exclusive bargaining representative for such items as contract

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negotiation and administration, organizing activities, labor dispute activities, public relations activities, political activities, voter education and issue advocacy activities, contributions to charitable, nonprofit, or community organizations, and travel expenses;

(d) Permits all members of the bargaining unit equal ability to affect decisions related to work place representation; and

(e) Does not expend or divert funds collected as work place representation dues or fees to make contributions or expenditures to influence an election or to operate a political committee, unless an assessment for such use is affirmatively authorized by an affected employee. Such authorized assessments must be segregated from dues and fees collected pursuant to the collective bargaining agreement and reported pursuant to RCW 42.17.040.

(3) All union security provisions must safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall either have his or her right accommodated by the reduction or waiver of the representation fees, or pay an amount of money equivalent to ((regular dues and fees)) a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.

Sec. 5. RCW 41.80.100 and 2002 c 354 s 311 are each amended to read as follows:

(1) A collective bargaining agreement may contain a union security provision requiring as a condition of employment the payment, no later than the thirtieth day following the beginning of employment or July 1, 2004, whichever is later, of an agency shop fee to the employee organization that is the exclusive bargaining representative for the bargaining unit in which the employee is employed. The amount of the fee shall be equal to or less than the amount required to become a member in good standing of the employee organization. Each employee organization shall establish a procedure by which any employee so requesting may pay a representation fee no greater than the part of the membership fee that represents a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment.

(2) A union security provision in a collective bargaining agreement is not permitted and ceases to be binding unless the employee organization that is the exclusive bargaining representative of employees covered by a union security provision permitted in this chapter and any affiliated organization collecting dues, fees, or assessments pursuant to a union security provision:

(a) Provides each employee with annual written notice, separate from any other publication, conspicuously explaining the affected employees' right to decline membership in the union and the process for paying a work place representation fee, the services the bargaining agent will provide for that fee and the process for receiving any funds collected as agency fees but not used for purposes germane to the collective bargaining process or to contract administration;

(b) Provides each employee with annual written notice, separate from any other publication, conspicuously explaining that employees have a right of nonassociation when based upon bona fide religious tenets or teachings of a church or religious

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body of which such employee is a member, and the process for exercising this right:

(c) Provides each employee with an annual written notice specifying the financial information the exclusive bargaining representative or affiliated organization will make available to the affected employee upon request. Any exclusive bargaining representative with annual receipts of two hundred thousand dollars or more shall, on request by an affected employee, provide the employee with detailed and timely information as specified in rule by the commission on at least the following:

(i) Salary, the cost of fringe benefits, allowances, and other direct or indirect disbursements to each officer of the exclusive bargaining representative and to the support staff, as well as all contributions to state or national affiliates and any official or employee thereof;

(ii) All income received or the value of services furnished to an exclusive bargaining representative by either a parent affiliated labor organization or by any other labor organization on behalf of the exclusive bargaining representative; and

(iii) An itemization of the total amount spent by the exclusive bargaining representative for such items as contract negotiation and administration, organizing activities, labor dispute activities, public relations activities, political activities, voter education and issue advocacy activities, contributions to charitable, nonprofit, or community organizations, and travel expenses;

(d) Permits all members of the bargaining unit equal ability to affect decisions related to work place representation; and

(e) Does not expend or divert funds collected as work place representation dues or fees to make contributions or expenditures to influence an election or to operate a political committee, unless an assessment for such use is affirmatively authorized by an affected employee. Such authorized assessments must be segregated from dues and fees collected pursuant to the collective bargaining agreement and reported pursuant to RCW 42.17.040.

(3) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets, or teachings of a church or religious body of which the employee is a member, shall ~~(as a condition of employment, make payments to the employee organization, for purposes within the program of the employee organization as designated by the employee that would be in harmony with his or her individual conscience. The amount of the payments shall be equal to the periodic dues and fees uniformly required as a condition of acquiring or retaining membership in the employee organization minus any included monthly premiums for insurance programs sponsored by the employee organization))~~ either have his or her right accommodated by the reduction or waiver of the representation fees, or pay to a nonreligious charity or other charitable organization an amount of money equivalent to a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.

~~((3))~~ (4) Upon filing with the employer the written authorization of a bargaining unit employee under this chapter, the employee organization that is the exclusive bargaining representative of the bargaining unit shall have the exclusive right to have deducted from the salary of the employee an amount equal to the fees and dues uniformly required as a condition of acquiring or retaining membership in the employee organization. The fees and dues shall be deducted each pay period from the pay of all employees who have given authorization for the deduction and shall be transmitted by the employer as provided for by agreement between the employer and the employee organization.

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~~((4))~~ (5) Employee organizations that before July 1, 2004, were entitled to the benefits of this section shall continue to be entitled to these benefits.

Sec. 6. RCW 47.64.160 and 1983 c 15 s 7 are each amended to read as follows:

(1) A collective bargaining agreement may include union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to or less than such dues.

(2) A union security provision in a collective bargaining agreement is not permitted and ceases to be binding unless the employee organization that is the exclusive bargaining representative of employees covered by a union security provision permitted in this chapter and any affiliated organization collecting dues, fees, or assessments pursuant to a union security provision:

(a) Provides each employee with annual written notice, separate from any other publication, conspicuously explaining the affected employees' right to decline membership in the union and the process for paying a work place representation fee, the services the bargaining agent will provide for that fee, and the process for receiving any funds collected as agency fees but not used for purposes germane to the collective bargaining process or to contract administration;

(b) Provides each employee with annual written notice, separate from any other publication, conspicuously explaining that employees have a right of nonassociation when based upon bona fide religious tenets or teachings of a church or religious body of which such employee is a member, and the process for exercising this right;

(c) Provides each employee with an annual written notice specifying the financial information the exclusive bargaining representative or affiliated organization will make available to the affected employee upon request. Any exclusive bargaining representative with annual receipts of two hundred thousand dollars or more shall, on request by an affected employee, provide the employee with detailed and timely information as specified in rule by the commission on at least the following:

(i) Salary, the cost of fringe benefits, allowances, and other direct or indirect disbursements to each officer of the exclusive bargaining representative and to the support staff, as well as all contributions to state or national affiliates and any official or employee thereof;

(ii) All income received or the value of services furnished to an exclusive bargaining representative by either a parent affiliated labor organization or by any other labor organization on behalf of the exclusive bargaining representative; and

(iii) An itemization of the total amount spent by the exclusive bargaining representative for such items as contract negotiation and administration, organizing activities, labor dispute activities, public relations activities, political activities, voter education and issue advocacy activities, contributions to charitable, nonprofit, or community organizations, and travel expenses;

(d) Permits all members of the bargaining unit equal ability to affect decisions related to work place representation; and

(e) Does not expend or divert funds collected as work place representation dues or fees to make contributions or expenditures to influence an election or to operate a political committee, unless an assessment for such use is affirmatively authorized by an affected employee. Such authorized assessments must be segregated from dues and fees collected pursuant to the collective bargaining agreement and reported pursuant to RCW 42.17.040.

(3) All union security provisions shall safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall either have his or

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her right accommodated by the reduction or waiver of the representation fees, or pay an amount of money equivalent to ~~((regular dues and fees))~~ a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, after "fees"; strike the remainder of the title and insert "amending RCW 28B.52.045, 41.56.122, 41.76.045, 41.59.100, 41.80.100, and 47.64.160; and creating a new section."

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

Senator Keiser spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Clements to House Bill No. 2079.

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

MOTION

Senator Honeyford moved that the following striking amendment by Senators Benton, Clements, Holmquist and Schoesler be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that confusion exists regarding the rights and protections afforded to those paying agency shop fees and intends to clarify those rights by specifying limits on the uses of agency fees. The legislature further finds that the extraordinary power to compel payment for services is a power normally reserved only to public entities, and that its extension to private entities with nonpublic interests including campaign activities must be restricted to the purposes justifying its authorization by law. The legislature further finds that the United States constitutional protection against compelled speech preempts any statutory grant of power to compel payment for collective bargaining services, and interpretations of state law must always put protection from compelled speech before labor organization convenience. The legislature further finds that many labor organizations operate without relying on mandatory fees, and the inclusion of such mandatory fees in bargaining agreements and their protection under law is not necessary for the interests and rights of labor organizations. The legislature further finds that generally accepted accounting principles consider commingled funds to be from all sources, and that only a complete refund of agency fees would satisfy the requirements of the citizens' Initiative Measure No. 134.

Sec. 2. RCW 42.17.760 and 1993 c 2 s 16 are each amended to read as follows:

(1) A labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual.

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(2) Subject to other provisions of this chapter, labor organizations may use any fund or account from which payments or expenditures are made, and where agency shop fees are commingled, to make contributions or expenditures to influence an election or operate a political committee if all agency shop fees collected in the twelve months prior to the contribution or expenditure are returned to those who paid fees and did not affirmatively authorize these uses.

(3) For the purpose of this section:

(a) "Agency shop fees" means any funds received from someone who has not affirmatively joined a labor organization but supplied those funds pursuant to a collective bargaining agreement;

(b) "Affirmatively authorized" means that the agency fee payer signed a declaration within the twelve months prior to the expenditure indicating consent to use of the fees to influence an election;

(c) "Use agency shop fees" means to make any expenditure from agency shop fees or any funds commingled with agency shop fees including general treasury funds; and

(d) "Expenditures to influence an election" includes but is not limited to expenditures on staff who have duties including activities to affect elections or train other staff or volunteers to affect elections, expenditures on communication efforts internally or externally to advance or oppose one or more candidates or ballot measures, expenditures to identify voter preferences, expenditures to aid in voter turnout, expenditures on staff to aid in recruiting or training candidates, expenditures on staff or materials to prepare ballot measures or recall efforts, expenditures on staff or legal services to contest election results, and donations of funds to organizations or individuals who make expenditures to influence an election."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, after "fees"; strike the remainder of the title and insert "amending RCW 42.17.760; and creating a new section."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Benton, Clements, Holmquist and Schoesler to House Bill No. 2097.

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

MOTION

Senator Keiser moved that the rules be suspended, that House Bill No. 2079 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

Senator Benton objected to advance to third reading.

The President declared the question before the Senate to be the motion by Senator Keiser that House Bill No. 2079 be advanced to third reading and placed on final passage.

The motion by Senator Keiser carried and the bill was advanced to third reading and final passage.

POINT OF ORDER

Senator Swecker: "I believe that this bill is not properly before the body. The bill contains an emergency clause so circumventing the people's right to a referendum. The bill implements a new accounting scheme for the expenditure of non union fees. As this has nothing to do with the public peace, health or safety. I believe that this bill is not properly before the

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body and I request a ruling thereon and in summation I'd like to say I think that acting on this bill in this manner at this time will open the door to litigation."

Senator Kohl-Welles spoke against the point of order.

RULING BY THE PRESIDENT

President Owen: "Senator Swecker, the President believes that whether or not to include an emergency clause in a measure is a policy choice made by the body. Ultimately, the issue presented is one of law, not parliamentary procedure, and the President does not make legal determinations."

Senators Kohl-Welles, Kastama, Shin and Keiser spoke in favor of passage of the bill.

Senators Clements, Sheldon, Hargrove, Stevens, Benton, Carrell, Parlette and Holmquist spoke against passage of the bill.

POINT OF ORDER

Senator Holmquist: "Thank you Mr. President. I think that we're only allowed to speak on final passage once. I'm just inquiring to see if the current speaker has already spoke because I think she started....."

REPLY BY THE PRESIDENT

President Owen: "Well, she has but she 's the presenter of the motion so she can close debate. Senator Kohl-Welles."

POINT OF ORDER

Senator Clements: "My point is I'm not sure she made the motion."

REPLY BY THE PRESIDENT

President Owen: "She did not make the motion because she was off the floor. Senator Keiser made the motion, Senator Kohl-Welles is the chair of the committee and the practice of the Senate is to have the person who is the chair of the committee handle the bill so the President is honoring that precedence established by this body. Since she is the person who is handling the bill I interrupt that to be the presenter of the bill therefore she opens and closes debate."

POINT OF ORDER

Senator Clements: "Does that mean that the Senator from the fourteenth will not be able to say anything? I guess what I understand she was off the floor, I was on the floor. I guess the question is I'd like to close debate on the negative."

REPLY BY THE PRESIDENT

President Owen: "That is not permissible under your rules."

MOTION

Senator Eide demanded that the previous question be put. The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put was sustained by voice vote.

The President declared the question before the Senate to be the final passage of House Bill No. 2079.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2079 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 29

Voting nay: Senators Benton, Brandland, Carrell, Clements, Delvin, Hargrove, Hewitt, Holmquist, Honeyford, Kilmer, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 20

HOUSE BILL NO. 2079, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:56 a.m., on motion of Senator Eide, the Senate recessed until 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:00 a.m. by President Owen.

MOTION

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

REPORTS OF STANDING COMMITTEES

April 13, 2007

SB 5986 Prime Sponsor, Prentice: Concerning public facilities. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5986 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Brandland, Hatfield, Hobbs, Keiser, Oemig, Rasmussen, Roach and Rockefeller

MINORITY recommendation: Do not pass. Signed by Senators Carrell, Fairley, Honeyford, Regala, Schoesler and Tom

Passed to Committee on Rules for second reading.

April 13, 2007

2SHB 2256 Prime Sponsor, Committee on Finance: Establishing the family prosperity act. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Carrell, Fairley,

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Hatfield, Hobbs, Keiser, Kohl-Welles, Oemig, Rasmussen, Regala, Rockefeller and Tom

which was placed on the second reading calendar under suspension of the rules.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler. Without recommendation. Signed by Senators Brandland, Honeyford and Zarelli

MOTION

Passed to Committee on Rules for second reading.

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

REPORTS OF STANDING COMMITTEES
GUBERNATORIAL APPOINTMENTS

MOTION

April 13, 2007
SGA 9108 ROSEMARIE DUFFY, appointed January 30, 2006, for the term ending January 19, 2010, as Member of the Board of Pharmacy. Reported by Committee on Health & Long-Term Care

On motion of Senator McCaslin, Senators Brandland and Stevens were excused.

MOTION

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley, Kastama, Kohl-Welles, Marr and Parlette

On motion of Senator Delvin, Senator Hewitt was excused.

SECOND READING

MINORITY recommendation: NBC Signed by Senator Carrell

SUBSTITUTE HOUSE BILL NO. 2378, by House Committee on Transportation (originally sponsored by Representatives Flannigan, Jarrett, Clibborn, Eddy, Seaquist and Roberts)

Expediting new vessel construction for Washington state ferries.

Passed to Committee on Rules for second reading.

The measure was read the second time.

MOTION

April 13, 2007
SGA 9122 GARY HARRIS, appointed March 8, 2005, for the term ending February 7, 2009, as Member of the Board of Pharmacy. Reported by Committee on Health & Long-Term Care

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 2378 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley, Kastama, Kohl-Welles, Marr and Parlette

MOTION

MINORITY recommendation: NBC Signed by Senator Carrell

On motion of Senator Brandland, Senator Roach was excused.

Passed to Committee on Rules for second reading.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2378.

ROLL CALL

April 13, 2007
SGA 9259 DAN CONNOLLY, appointed February 16, 2007, for the term ending January 18, 2011, as Member of the Board of Pharmacy. Reported by Committee on Health & Long-Term Care

The Secretary called the roll on the final passage of Substitute House Bill No. 2378 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 45

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley, Kastama, Kohl-Welles, Marr and Parlette

Absent: Senators Kauffman and Marr - 2

Excused: Senators Hewitt and Stevens - 2

MINORITY recommendation: NBC Signed by Senator Carrell

Passed to Committee on Rules for second reading.

SUBSTITUTE HOUSE BILL NO. 2378, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Second Substitute House Bill No. 2256

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SECOND READING

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HOUSE BILL NO. 1859, by Representatives Goodman and Priest

Revising the statute law committee's publication authority.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 40.04.031 and 2006 c 46 s 3 are each amended to read as follows:

The statute law committee, after each legislative session, shall distribute, sell, or exchange session laws as required under this section.

(1) One set shall be given to the following: The United States supreme court library; each state adult correctional institution; each state mental institution; the state historical society; the state bar association; the Olympia press corps library; the University of Washington library; the library of each of the regional universities; The Evergreen State College library; the Washington State University library; each county law library; and the municipal reference branch of the Seattle public library.

(2) One set shall be given to the following upon their request: Each member of the legislature; each state agency and its divisions; each state commission, committee, board, and council; each community college; each assistant attorney general; each member of the United States senate and house of representatives from this state; each state official whose office is created by the Constitution; each prosecuting attorney; and each public library in cities of the first class.

(3) Two sets shall be given to the following: The administrator for the courts; the library of congress; the law libraries of any accredited law schools established in this state; and the governor.

(4) Two sets shall be given to the following upon their request: Each United States district court in the state; and each office and branch office of the United States district attorneys in this state.

(5) Three sets shall be given to the library of the circuit court of appeals of the ninth circuit, upon its request.

(6) The following may request, and receive at no charge, as many sets as are needed for their official business: The senate and house of representatives; each county auditor, who shall receive and distribute sets for use by his or her county's officials; the office of the code reviser; the secretary of the senate; the chief clerk of the house of representatives; the supreme court; each court of appeals in the state; the superior courts; the state library; and the state law library.

(7) Surplus copies of the session laws shall be sold and delivered by the statute law committee, in which case the price of the bound volumes shall be sufficient to cover costs. All money received from the sale of the session law sets shall be paid into the ((state treasury for the general fund)) statute law committee publications account.

(8) The statute law committee may exchange session law sets for similar laws or legal materials of other states, territories, and governments, and make such other distribution of the sets as in its judgment seems proper.

Sec. 2. RCW 1.08.110 and 1977 ex.s. c 240 s 2 are each amended to read as follows:

The statute law committee, in addition to the other responsibilities enumerated in this chapter, shall ((cause to be))

publish((ed)) the Washington State Register as created in RCW 34.08.020. The statute law committee ((and/or)) or the code reviser may adopt ((such)) rules as are necessary for the effective operation of ((such)) this service. The statute law committee, in its discretion, may publish the Washington State Register exclusively by electronic means on the code reviser web site if it determines that public access to the Washington State Register is not substantially diminished. If the statute law committee publishes the Washington State Register exclusively by electronic means on the code reviser web site, the electronic copy posted on the code reviser web site shall be considered the official copy of the Washington State Register.

The code reviser shall provide a paper copy of any issue of the register or any register filing upon request. The code reviser may charge a reasonable fee for printing and mailing the paper copy.

Sec. 3. RCW 34.05.210 and 1988 c 288 s 201 are each amended to read as follows:

(1) The code reviser shall cause the Washington Administrative Code to be compiled, indexed by subject, and published. All current, permanently effective rules of each agency shall be published in the Washington Administrative Code. Compilations shall be supplemented or revised as often as necessary and at least annually in a form compatible with the main compilation.

(2) Subject to the provisions of this chapter, the code reviser shall prescribe a uniform numbering system, form, and style for all proposed and adopted rules.

(3) The code reviser shall publish a register setting forth the text of all rules filed during the appropriate register publication period.

(4) The code reviser may omit from the register or the compilation, rules that would be unduly cumbersome, expensive, or otherwise inexpedient to publish, if such rules are made available in printed or processed form on application to the adopting agency, and if the register or compilation contains a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

(5) The code reviser may edit and revise rules for publication, codification, and compilation, without changing the meaning of any such rule.

(6) When a rule, in whole or in part, is declared invalid and unconstitutional by a court of final appeal, the adopting agency shall give notice to that effect in the register. With the consent of the attorney general, the code reviser may remove obsolete rules or parts of rules from the Washington Administrative Code when:

(a) The rules are declared unconstitutional by a court of final appeal; or

(b) The adopting agency ceases to exist and the rules are not transferred by statute to a successor agency.

(7) ((Registers and)) Compilations shall be made available, in written form to (a) state elected officials whose offices are created by Article II or III of the state Constitution or by RCW 48.02.010, upon request, (b) ((to)) the secretary of the senate and the chief clerk of the house for committee use, as required, but not to exceed the number of standing committees in each body, (c) ((to)) county boards of law library trustees and to the Olympia ((representatives of the Associated Press and the United Press International without request, free of charge)) press corps library, and (d) ((to)) other persons at a price fixed by the code reviser.

(8) The board of law library trustees of each county shall keep and maintain a complete and current set of registers and compilations when required for use and inspection as provided in ((RCW 27.24.060)) chapter 27.24 RCW. If the register is published exclusively by electronic means on the code reviser web site, providing on-site access to the electronic version of the register shall satisfy the requirements of this subsection for access to the register.

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(9) Registers shall be made available in written form to the same parties and under the same terms as those listed in subsection (7) of this section, unless the register is published exclusively by electronic means on the code reviser web site.

(10) Judicial notice shall be taken of rules filed and published as provided in RCW 34.05.380 and this section.

Sec. 4. RCW 34.05.312 and 2003 c 246 s 4 are each amended to read as follows:

Each agency shall designate a rules coordinator, who shall have knowledge of the subjects of rules being proposed or prepared within the agency for proposal, maintain the records of any such action, and respond to public inquiries about possible, proposed, or adopted rules and the identity of agency personnel working, reviewing, or commenting on them. The office and mailing address of the rules coordinator shall be published in the state register at the time of designation and ((in the first issue of each calendar year)) maintained thereafter on the code reviser web site for the duration of the designation. The rules coordinator may be an employee of another agency.

Sec. 5. RCW 34.05.380 and 1989 c 175 s 11 are each amended to read as follows:

(1) Each agency shall file in the office of the code reviser a certified copy of all rules it adopts, except for rules contained in tariffs filed with or published by the Washington utilities and transportation commission. The code reviser shall place upon each rule a notation of the time and date of filing and shall keep a permanent ((register)) written record of filed rules open to public inspection. In filing a rule, each agency shall use the standard form prescribed for this purpose by the code reviser.

(2) Emergency rules adopted under RCW 34.05.350 become effective upon filing unless a later date is specified in the order of adoption. All other rules become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the order of adoption.

(3) A rule may become effective immediately upon its filing with the code reviser or on any subsequent date earlier than that established by subsection (2) of this section, if the agency establishes that effective date in the adopting order and finds that:

(a) Such action is required by the state or federal Constitution, a statute, or court order;

(b) The rule only delays the effective date of another rule that is not yet effective; or

(c) The earlier effective date is necessary because of imminent peril to the public health, safety, or welfare.

The finding and a brief statement of the reasons therefor required by this subsection shall be made a part of the order adopting the rule.

(4) With respect to a rule made effective pursuant to subsection (3) of this section, each agency shall make reasonable efforts to make the effective date known to persons who may be affected by it.

Sec. 6. RCW 42.56.580 and 2005 c 483 s 3 are each amended to read as follows:

(1) Each state and local agency shall appoint and publicly identify a public records officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of this chapter. A state or local agency's public records officer may appoint an employee or official of another agency as its public records officer.

(2) For state agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance with the public records disclosure requirements of this chapter shall be published in the state register at the time of designation and ((annually every year)) maintained thereafter on the code reviser web site for the duration of the designation.

(3) For local agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance within the public records disclosure requirements of this chapter shall be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on its internet site, or including in its publications."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to House Bill No. 1859.

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

MOTION

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

On page 1, line 1 of the title, after "committee;" strike the remainder of the title and insert "and amending RCW 40.04.031, 1.08.110, 34.05.210, 34.05.312, 34.05.380, and 42.56.580."

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1859 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Kauffman and Marr were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1859 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1859 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Hewitt and Stevens - 2

HOUSE BILL NO. 1859 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1949, by Representatives Williams, Conway, B. Sullivan, Strow, Sells, Appleton, Kessler, Hinkle, McCoy, Walsh, Chandler, Pearson, Condotta, Kenney, Hasegawa, Moeller and Ormsby

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Providing industrial insurance coverage for workers involved in harvesting geoduck clams.

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

The measure was read the second time.

MOTION

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce, Research & Development be adopted.

MOTION

Strike everything after the enacting clause and insert the following:

On motion of Senator Zarelli, the rules were suspended, House Bill No. 1949 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

"Sec. 1. RCW 51.12.100 and 1991 c 88 s 3 are each amended to read as follows:

The President declared the question before the Senate to be the final passage of House Bill No. 1949 as amended by the Senate.

(1) ~~Except as otherwise provided in this section, the provisions of this title shall not apply to a master or member of a crew of any vessel, or to employers and workers for whom a right or obligation exists under the maritime laws or federal employees' compensation act for personal injuries or death of such workers.~~

ROLL CALL

(2) If an accurate segregation of payrolls of workers for whom such a right or obligation exists under the maritime laws cannot be made by the employer, the director is hereby authorized and directed to fix from time to time a basis for the approximate segregation of the payrolls of employees to cover the part of their work for which no right or obligation exists under the maritime laws for injuries or death occurring in such work, and the employer, if not a self-insurer, shall pay premiums on that basis for the time such workers are engaged in their work.

The Secretary called the roll on the final passage of House Bill No. 1949 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

(3) Where two or more employers are simultaneously engaged in a common enterprise at one and the same site or place in maritime occupations under circumstances in which no right or obligation exists under the maritime laws for personal injuries or death of such workers, such site or place shall be deemed for the purposes of this title to be the common plant of such employers.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

(4) In the event payments are made both under this title ~~((prior to the final determination))~~ and under the maritime laws or federal employees' compensation act, such benefits paid under this title shall be repaid by the worker or beneficiary ~~((if recovery is subsequently made under the maritime laws or federal employees' compensation act)).~~ For any claims made under the Jones Act, the employer is deemed a third party, and the injured worker's cause of action is subject to RCW 51.24.030 through 51.24.120.

Excused: Senator Carrell - 1

HOUSE BILL NO. 1949 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

(5) Commercial divers harvesting geoduck clams under an agreement made pursuant to RCW 79.135.210, workers tending to such divers, and the employers of such divers and tenders shall be subject to the provisions of this title whether or not such work is performed from a vessel.

SECOND READING

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

SUBSTITUTE HOUSE BILL NO. 1965, by House Committee on Local Government (originally sponsored by Representatives Eddy and Curtis)

Authorizing major industrial development within industrial land banks.

The measure was read the second time.

MOTION

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce, Research & Development to House Bill No. 1949.

Senator Fairley moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted.

Strike everything after the enacting clause and insert the following:

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

"Sec. 1. RCW 36.70A.367 and 2004 c 208 s 1 are each amended to read as follows:

MOTION

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

(1) In addition to the major industrial development allowed under RCW 36.70A.365, a county planning under RCW 36.70A.040 that meets the criteria in subsection ~~((10) or (11))~~ (5) of this section may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for designating a bank of no more than two master planned locations for major industrial activity outside urban growth areas.

On page 1, line 2 of the title, after "clams;" strike the remainder of the title and insert "and amending RCW 51.12.100."

(2) ~~((A master planned location for major industrial developments outside an urban growth area may be included in~~

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the urban industrial land bank for the county if criteria including, but not limited to, the following are met through the completion of a comprehensive planning process that ensures that:

—(a) Development regulations are adopted to ensure that urban growth will not occur in adjacent nonurban areas;

—(b) The master plan for the major industrial developments is consistent with the county's development regulations adopted for protection of critical areas;

—(c) An inventory of developable land has been conducted as provided in RCW 36.70A.365;

—(d) Provisions are established for determining the availability of alternate sites within urban growth areas and the long-term annexation feasibility of land sites outside of urban growth areas; and

—(e) Development regulations are adopted to require the industrial land bank site to be used primarily for locating industrial and manufacturing businesses and specify that the gross floor area of all commercial and service buildings or facilities locating within the industrial land bank shall not exceed ten percent of the total gross floor area of buildings or facilities in the industrial land bank. The commercial and service businesses operated within the ten percent gross floor area limit shall be necessary to the primary industrial or manufacturing businesses within the industrial land bank. The intent of this provision for commercial or service use is to meet the needs of employees, clients, customers, vendors, and others having business at the industrial site and as an adjunct to the industry to attract and retain a quality work force and to further other public objectives, such as trip reduction. Such uses would not be promoted to attract additional clientele from the surrounding area. The commercial and service businesses should be established concurrently with or subsequent to the industrial or manufacturing businesses.

—(3) The process for reviewing and approving proposals to authorize siting of specific major industrial developments within an approved industrial land bank must ensure through adopted development regulations that:

—(a) New infrastructure is provided for and/or applicable impact fees are paid;

—(b) Transit-oriented site planning and traffic demand management programs are implemented;

—(c) Buffers are provided between the major industrial development and adjacent nonurban areas;

—(d) Environmental protection including air and water quality has been addressed and provided for;

—(e) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands; and

—(f) An interlocal agreement related to infrastructure cost sharing and revenue sharing between the county and interested cities is established.

—(4) In selecting master planned locations for inclusion in the urban industrial land bank, priority shall be given to locations that are adjacent to, or in close proximity to, an urban growth area.

—(5) Final approval of inclusion of a master planned location in an urban industrial land bank under subsection (2) of this section shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070, except that RCW 36.70A.130(2) does not apply so that inclusion or exclusion of master planned locations may be considered at any time. Approval of specific development proposals under subsection (3) of this section requires no further comprehensive plan amendment.

—(6) Once a master planned location has been included in an urban industrial land bank, manufacturing and industrial businesses that qualify as major industrial development under RCW 36.70A.365 may be located there.

—(7) Nothing in this section alters the requirements for a county to comply with chapter 43.21C RCW.

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—(8)(a) The authority of a county meeting the criteria of subsection (10) of this section to engage in the process of including or excluding master planned locations from an urban industrial land bank terminates on December 31, 2007. However, any location included in an urban industrial land bank on or before December 31, 2007, shall be available for major industrial development as long as the criteria of subsection (2) of this section are met. A county that has established or proposes to establish an industrial land bank pursuant to this section shall review the need for an industrial land bank within the county, including a review of the availability of land for industrial and manufacturing uses within the urban growth area, during the review and evaluation of comprehensive plans and development regulations required by RCW 36.70A.130.

—(b) The authority of a county meeting the criteria of subsection (11) of this section to engage in the process of including or excluding master planned locations from the urban industrial land bank terminates on December 31, 2002. However, any location included in the urban industrial land bank on December 31, 2002, shall be available for major industrial development as long as the criteria of subsection (2) of this section are met.

—(9)) A master planned location for major industrial developments may be approved through a two-step process: Designation of an industrial land bank area in the comprehensive plan; and subsequent approval of specific major industrial developments through a local master plan process described under subsection (3) of this section.

(a) The comprehensive plan must identify locations suited to major industrial development due to proximity to transportation or resource assets. The plan must identify the maximum size of the industrial land bank area and any limitations on major industrial developments based on local limiting factors, but does not need to specify a particular parcel or parcels of property or identify any specific use or user except as limited by this section. In selecting locations for the industrial land bank area, priority must be given to locations that are adjacent to, or in close proximity to, an urban growth area.

(b) The environmental review for amendment of the comprehensive plan must be at the programmatic level and, in addition to a threshold determination, must include:

(i) An inventory of developable land as provided in RCW 36.70A.365; and

(ii) An analysis of the availability of alternative sites within urban growth areas and the long-term annexation feasibility of sites outside of urban growth areas.

(c) Final approval of an industrial land bank area under this section must be by amendment to the comprehensive plan adopted under RCW 36.70A.070, and the amendment is exempt from the limitation of RCW 36.70A.130(2) and may be considered at any time. Approval of a specific major industrial development within the industrial land bank area requires no further amendment of the comprehensive plan.

(3) In concert with the designation of an industrial land bank area, a county shall also adopt development regulations for review and approval of specific major industrial developments through a master plan process. The regulations governing the master plan process shall ensure, at a minimum, that:

(a) Urban growth will not occur in adjacent nonurban areas;

(b) Development is consistent with the county's development regulations adopted for protection of critical areas;

(c) Required infrastructure is identified and provided concurrent with development. Such infrastructure, however, may be phased in with development;

(d) Transit-oriented site planning and demand management programs are specifically addressed as part of the master plan approval;

(e) Provision is made for addressing environmental protection, including air and water quality, as part of the master plan approval;

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(f) The master plan approval includes a requirement that interlocal agreements between the county and service providers, including cities and special purpose districts providing facilities or services to the approved master plan, be in place at the time of master plan approval;

(g) A major industrial development is used primarily by industrial and manufacturing businesses, and that the gross floor area of all commercial and service buildings or facilities locating within the major industrial development does not exceed ten percent of the total gross floor area of buildings or facilities in the development. The intent of this provision for commercial or service use is to meet the needs of employees, clients, customers, vendors, and others having business at the industrial site, to attract and retain a quality workforce, and to further other public objectives, such as trip reduction. These uses may not be promoted to attract additional clientele from the surrounding area. Commercial and service businesses must be established concurrently with or subsequent to the industrial or manufacturing businesses;

(h) New infrastructure is provided for and/or applicable impact fees are paid to assure that adequate facilities are provided concurrently with the development. Infrastructure may be achieved in phases as development proceeds;

(i) Buffers are provided between the major industrial development and adjacent rural areas;

(j) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands; and

(k) An open record public hearing is held before either the planning commission or hearing examiner with notice published at least thirty days before the hearing date and mailed to all property owners within one mile of the site.

(4) For the purposes of this section:

(a) "Major industrial development" means a master planned location suitable for manufacturing or industrial businesses that:
(i) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; (ii) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent; or (iii) requires a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an urban growth area. The major industrial development may not be for the purpose of retail commercial development or multitenant office parks.

(b) "Industrial land bank" means up to two master planned locations, each consisting of a parcel or parcels of contiguous land, sufficiently large so as not to be readily available within the urban growth area of a city, or otherwise meeting the criteria contained in (a) of this subsection, suitable for manufacturing, industrial, or commercial businesses and designated by the county through the comprehensive planning process specifically for major industrial use.

~~((1+0))~~ (5) This section and the termination ~~((date))~~ provisions specified in subsection ~~((8)(a))~~ (6) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than two hundred fifty thousand and is part of a metropolitan area that includes a city in another state with a population greater than two hundred fifty thousand;

(b) Has a population greater than one hundred forty thousand and is adjacent to another country;

(c) Has a population greater than forty thousand but less than seventy-five thousand and has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

- (i) Is bordered by the Pacific Ocean;
- (ii) Is located in the Interstate 5 or Interstate 90 corridor; or
- (iii) Is bordered by Hood Canal;
- (d) Is east of the Cascade divide; and
- (i) Borders another state to the south; or

(ii) Is located wholly south of Interstate 90 and borders the Columbia river to the east; ~~((or))~~

(e) Has an average population density of less than one hundred persons per square mile as determined by the office of financial management, and is bordered by the Pacific Ocean and by Hood Canal~~((:))~~; or

~~((1+1)) This section and the termination date specified in subsection (8)(b) of this section apply to a county that at the time the process is established under subsection (1) of this section)~~ (f) Meets all of the following criteria:

~~((a))~~ (i) Has a population greater than forty thousand but fewer than eighty thousand;

~~((b))~~ (ii) Has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

~~((c))~~ (iii) Is located in the Interstate 5 or Interstate 90 corridor.

~~((1+2))~~ (6) In order to identify and approve locations for industrial land banks, the county shall take action to designate one or more industrial land banks and adopt conforming regulations as provided by RCW 36.70A.367(2) on or before the last date to complete that county's next periodic review under RCW 36.70A.130(4). The authority to take action to designate a land bank area in the comprehensive plan expires if not acted upon by the county within the time frame provided in this section. Once a land bank area has been identified in the county's comprehensive plan, the authority of the county to process a master plan or site projects within an approved master plan does not expire.

(7) Any county seeking to designate an industrial land bank under this section must:

(a) Provide countywide notice, in conformity with RCW 36.70A.035, of the intent to designate an industrial land bank. Notice must be published in a newspaper or newspapers of general circulation reasonably likely to reach subscribers in all geographic areas of the county. Notice must be provided not less than thirty days prior to commencement of consideration by the county legislative body; and

(b) Make a written determination of the criteria and rationale used by the legislative body as the basis for siting an industrial land bank under this chapter.

(8) Any location included in an industrial land bank pursuant to section 2, chapter 289, Laws of 1998, section 1, chapter 402, Laws of 1997, and section 2, chapter 167, Laws of 1996 shall remain available for major industrial development according to this section as long as the ~~((criteria of subsection 2))~~ requirements of this section continue to be satisfied."

MOTION

Senator Swecker moved that the following amendment by Senators Swecker and Fairley to the committee striking amendment be adopted.

On page 7, line 7, after "RCW 36.70A.130(4)" insert "that occurs prior to December 31, 2014"

Renumber the sections consecutively and correct any internal references accordingly.

Senator Swecker spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Swecker and Fairley on page 7, line 7 to the committee striking amendment to Substitute House Bill No. 1965.

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

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

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Committee on Government Operations & Elections as amended to Substitute House Bill No. 1965.

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

MOTION

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

On page 1, line 2 of the title, after "banks;" strike the remainder of the title and insert "and amending RCW 36.70A.367."

MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 1965 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1965 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1965 as amended by the Senate and the bill passed the Senate by the following vote: Y e a s , 4 9 ; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1965 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rasmussen moved that Gubernatorial Appointment No. 9024, Alfred Hallowell, as a member of the Horse Racing Commission, be confirmed.

APPOINTMENT OF ALFRED HALLOWELL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9024, Alfred Hallowell as a member of the Horse Racing Commission.

Senator Rasmussen spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

The Secretary called the roll on the confirmation of

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Gubernatorial Appointment No. 9024, Alfred Hallowell as a member of the Horse Racing Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

Gubernatorial Appointment No. 9024, Alfred Hallowell, having received the constitutional majority was declared confirmed as a member of the Horse Racing Commission.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1832, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hunt, Chandler, Williams, Ormsby and Condotta)

Shortening the statute of limitations on claims under chapter 42.17 RCW.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 1832 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1832.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1832 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1832, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1397, by House Committee on Health Care & Wellness (originally sponsored by Representatives Campbell, Kenney, Curtis, Cody and Uptegrove)

Revising the definition of massage therapy to include

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manipulation or pressure inside the mouth or oral cavity. Revised for 1st Substitute: Establishing an intraoral massage endorsement for massage therapists.

MOTION

Subject to rule 64, Senator Hargrove moved that the bill be read in full.

Senator Eide objected to the motion.

REPLY BY THE PRESIDENT

President Owen: "Senator Hargrove? Senator Eide, unless Senator Hargrove gives me some indication that he's not serious, the President will have this bill read in full. Senator?"

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1397 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1397.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1397 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1397, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1303, by House Committee on Appropriations (originally sponsored by Representatives Dickerson, B. Sullivan, Jarrett, Linville, Priest, Appleton, Pedersen, Kenney, Sells, Morrell, Lantz, O'Brien, Chase, Eickmeyer, McCoy, Haigh, Rolfes, Hurst, Eddy, Springer, Schual-Berke, Fromhold, Moeller, Hunt, Goodman, Williams, Darneille, Kagi, Lovick, Campbell, Dunshee, Sommers, Simpson, Hunter, Roberts and Miloscia)

Encouraging the use of cleaner energy.

The measure was read the second time.

MOTION

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

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Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that excessive dependence on fossil fuels jeopardizes Washington's economic security, environmental integrity, and public health. Accelerated development and use of clean fuels and clean vehicle technologies will reduce the drain on Washington's economy from importing fossil fuels. As fossil fuel prices rise, clean fuels and vehicles can save consumers money while promoting the development of a major, sustainable industry that provides good jobs and a new source of rural prosperity. In addition, clean fuels and vehicles protect public health by reducing toxic air and climate change emissions.

(2) The legislature also finds that climate change is expected to have significant impacts in the Pacific Northwest region in the near and long-term future. These impacts include: Increased temperatures, declining snowpack, more frequent heavy rainfall and flooding, receding glaciers, rising sea levels, increased risks to public health due to insect and rodent-borne diseases, declining salmon populations, and increased drought and risk of forest fires. The legislature recognizes the need at this time to continue to gather and analyze information related to climate protection. This analysis will allow prudent steps to be taken to avoid, mitigate, or respond to climate impacts and protect our communities.

(3) Finally, the legislature finds that to reduce fossil fuel dependence, build our clean energy economy, and reduce climate impacts, the state should develop policies and incentives that help businesses, consumers, and farmers gain greater access to affordable clean fuels and vehicles and to produce clean fuels in the state. These policies and incentives should include: Incentives for replacement of the most polluting diesel engines, especially in school buses; transitional incentives for development of the most promising in-state clean fuels and fuel feedstocks, including biodiesel crops, ethanol from plant waste, and liquid natural gas from landfill or wastewater treatment gases; reduced fossil fuel consumption by state fleets; development of promising new technologies for displacing petroleum with electricity, such as "plug-in hybrids"; and impact analysis and emission accounting procedures that prepare Washington to respond and prosper as climate change impacts occur, and as policies and markets to reduce climate pollution are developed.

**PART 1
INVESTING IN CLEAN AIR**

NEW SECTION. Sec. 101. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall implement a school bus replacement incentive program. As part of the program, the office shall fund up to ten percent of the cost of a new 2007 or later model year school bus that meets the 2007 federal motor vehicle emission control standards and is purchased by a school district by no later than June 30, 2009, provided that the new bus is replacing a 1994 or older school bus in the school district's fleet. Replacement of the oldest buses must be given highest priority.

(2) The office of the superintendent of public instruction shall ensure that buses being replaced through this program are surplus under RCW 28A.335.180. As part of the surplus process, school districts must provide written documentation to the office of the superintendent of public instruction demonstrating that buses being replaced are scrapped and not purchased for road use. The documentation must include bus make, model, year, vehicle identification number, engine make, engine serial number, and salvage yard receipts; and must demonstrate that the engine and body of the bus being replaced has been rendered unusable.

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(3) The office of the superintendent of public instruction may adopt any rules necessary for the implementation of this act.

Sec. 102. RCW 70.94.017 and 2005 c 295 s 5 are each amended to read as follows:

(1) Money deposited in the segregated subaccount of the air pollution control account under RCW 46.68.020(2) shall be distributed as follows:

(a) Eighty-five percent shall be distributed to air pollution control authorities created under this chapter. The money must be distributed in direct proportion with the amount of fees imposed under RCW 46.12.080, 46.12.170, and 46.12.181 that are collected within the boundaries of each authority. However, an amount in direct proportion with those fees collected in counties for which no air pollution control authority exists must be distributed to the department.

(b) The remaining fifteen percent shall be distributed to the department.

(2) Money distributed to air pollution control authorities and the department under subsection (1) of this section must be used as follows:

(a) Eighty-five percent of the money received by an air pollution control authority or the department is available on a priority basis to retrofit school buses with exhaust emission control devices or to provide funding for fueling infrastructure necessary to allow school bus fleets to use alternative, cleaner fuels. In addition, the director of ecology or the air pollution control officer may direct funding under this section for other publicly or privately owned diesel equipment if the director of ecology or the air pollution control officer finds that funding for other publicly or privately owned diesel equipment will provide public health benefits and further the purposes of this chapter.

(b) The remaining fifteen percent may be used by the air pollution control authority or department to reduce transportation-related air contaminant emissions and clean up air pollution, or reduce and monitor toxic air contaminants.

(3) Money in the air pollution control account may be spent by the department only after appropriation.

(4) This section expires July 1, 2020.

Sec. 103. RCW 53.08.040 and 1989 c 298 s 1 are each amended to read as follows:

(1) A district may improve its lands by dredging, filling, bulkheading, providing waterways or otherwise developing such lands for industrial and commercial purposes. A district may also acquire, construct, install, improve, and operate sewer and water utilities to serve its own property and other property owners under terms, conditions, and rates to be fixed and approved by the port commission. A district may also acquire, by purchase, construction, lease, or in any other manner, and may maintain and operate other facilities for the control or elimination of air, water, or other pollution, including, but not limited to, facilities for the treatment and/or disposal of industrial wastes, and may make such facilities available to others under terms, conditions and rates to be fixed and approved by the port commission. Such conditions and rates shall be sufficient to reimburse the port for all costs, including reasonable amortization of capital outlays caused by or incidental to providing such other pollution control facilities(~~(= PROVIDED, That)~~). However, no part of such costs of providing any pollution control facility to others shall be paid out of any tax revenues of the port(~~(= AND PROVIDED FURTHER, That)~~) and no port shall enter into an agreement or contract to provide sewer and/or water utilities or pollution control facilities if substantially similar utilities or facilities are available from another source (or sources) which is able and willing to provide such utilities or facilities on a reasonable and nondiscriminatory basis unless such other source (or sources) consents thereto.

(2) In the event that a port elects to make such other pollution control facilities available to others, it shall do so by lease, lease purchase agreement, or other agreement binding such user to

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pay for the use of said facilities for the full term of the revenue bonds issued by the port for the acquisition of said facilities, and said payments shall at least fully reimburse the port for all principal and interest paid by it on said bonds and for all operating or other costs, if any, incurred by the port in connection with said facilities(~~(= PROVIDED, That)~~). However, (~~That~~) where there is more than one user of any such facilities, each user shall be responsible for its pro rata share of such costs and payment of principal and interest. Any port intending to provide pollution control facilities to others shall first survey the port district to ascertain the potential users of such facilities and the extent of their needs. The port shall conduct a public hearing upon the proposal and shall give each potential user an opportunity to participate in the use of such facilities upon equal terms and conditions.

(3) "Pollution control facility," as used in this section and RCW 53.08.041, does not include air quality improvement equipment that provides emission reductions for engines, vehicles, and vessels.

PART 2 PUBLIC SECTOR FUEL USE

Sec. 201. RCW 43.19.642 and 2006 c 338 s 10 are each amended to read as follows:

(1) (~~All state agencies are encouraged to use a fuel blend of twenty percent biodiesel and eighty percent petroleum diesel for use in diesel-powered vehicles and equipment.~~)

(~~2~~) Effective June 1, 2006, for agencies complying with the ultra- low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(~~3~~) (2) Effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(~~4~~) (3) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file (~~quarterly~~) biannual reports with the department of general administration documenting the use of the fuel and a description of how any problems encountered were resolved.

NEW SECTION. **Sec. 202.** A new section is added to chapter 43.19 RCW to read as follows:

(1) Effective June 1, 2015, all state agencies and local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of community, trade, and economic development pursuant to section 204 of this act, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) By no later than January 1, 2020, the annual fossil fuel usage by the state must be at least twenty-five percent below the annual usage for the year 2006.

(3) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

NEW SECTION. **Sec. 203.** A new section is added to chapter 43.19 RCW to read as follows:

(1) In order to allow the motor vehicle fuel needs of state and local government to be satisfied by Washington-produced biofuels as provided in RCW 43.19.642, the department of general administration as well as local governments may contract in advance and execute contracts with public or private producers, suppliers, or other parties, for the purchase of

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appropriate biofuels, as that term is defined in RCW 15.110.010 (as recodified by this act), and biofuel blends. Contract provisions may address items including, but not limited to, fuel standards, price, and delivery date.

(2) The department of general administration may combine the needs of local government agencies, including ports, special districts, school districts, and municipal corporations, for the purposes of executing contracts for biofuels and to secure a sufficient and stable supply of alternative fuels.

NEW SECTION. Sec. 204. By June 1, 2010, the department of community, trade, and economic development shall adopt rules to define practicability and clarify how state agencies and local government subdivisions will be evaluated in determining whether they have met the goals set out in section 202(1) of this act. At a minimum, the rules must address:

(1) Criteria for determining how the goal in section 202(1) of this act will be met by June 1, 2015;

(2) Factors considered to determine compliance with the goal in section 202(1) of this act, including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

(3) A schedule for phased-in progress towards meeting the goal in section 202(1) of this act that may include different schedules for different fuel applications, different quantities of biofuels, or changes to the 2015 date.

NEW SECTION. Sec. 205. The director of the department of community, trade, and economic development shall appoint a coordinator that is responsible for:

(1) Managing, directing, inventorying, and coordinating state efforts to promote, develop, and encourage a biofuels market in Washington;

(2) Developing, coordinating, and overseeing the implementation of a plan, or series of plans, for the production, transport, distribution, and delivery of biofuels produced predominantly from recycled products or Washington feedstocks;

(3) Working with the departments of transportation and general administration, or other applicable state and local governmental entities, to develop biofuel fueling stations for use by state and local motor vehicle fleets and to provide greater access to public sector fueling capacity for biofuels;

(4) Coordinating with the Western Washington University alternative automobile program for opportunities to support new Washington state technology for conversion of fossil fuel fleets to biofuel, hybrid, or alternative fuel propulsion;

(5) Coordinating with the University of Washington's college of forest management and the Olympic natural resources center for the identification of barriers to using the state's forest resources for fuel production, including the economic and transportation barriers of physically bringing forest biomass to the market;

(6) Coordinating with the department of agriculture and the University of Washington for the identification of other barriers for future biofuels development and development of strategies for furthering the penetration of the Washington state fossil fuel market with Washington produced biofuels, particularly among public entities.

NEW SECTION. Sec. 206. A new section is added to chapter 43.01 RCW to read as follows:

(1) It is in the state's interest and to the benefit of the people of the state to encourage the use of electrical vehicles in order to reduce emissions and provide the public with cleaner air. This section expressly authorizes the purchase of power at state expense to recharge privately and publicly owned plug-in electrical vehicles at state office locations where the vehicles are used for state business, are commute vehicles, or where the vehicles are at the state location for the purpose of conducting business with the state.

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(2) The director of the department of general administration shall provide reports to the governor and the appropriate committees of the legislature, as deemed necessary by the director, on the estimated amount of state-purchased electricity consumed by plug-in electrical vehicles if the director of general administration determines that the use has a significant cost to the state, and on the number of plug-in electric vehicles using state office locations.

NEW SECTION. Sec. 207. A new section is added to chapter 89.08 RCW to read as follows:

In addition to any other authority provided by law, conservation districts are authorized to enter into crop purchase contracts for a dedicated energy crop for the purposes of producing, selling, and distributing biodiesel produced from Washington state feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels.

NEW SECTION. Sec. 208. A new section is added to chapter 35.21 RCW to read as follows:

In addition to any other authority provided by law, public development authorities are authorized to enter into crop purchase contracts for a dedicated energy crop for the purposes of producing, selling, and distributing biodiesel produced from Washington state feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels.

NEW SECTION. Sec. 209. A new section is added to chapter 35.92 RCW to read as follows:

In addition to any other authority provided by law, municipal utilities are authorized to produce and distribute biodiesel, ethanol, and ethanol blend fuels, including entering into crop purchase contracts for a dedicated energy crop for the purpose of generating electricity or producing biodiesel produced from Washington feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels for use in internal operations of the electric utility and for sale or distribution.

NEW SECTION. Sec. 210. A new section is added to chapter 54.04 RCW to read as follows:

In addition to any other authority provided by law, public utility districts are authorized to produce and distribute biodiesel, ethanol, and ethanol blend fuels, including entering into crop purchase contracts for a dedicated energy crop for the purpose of generating electricity or producing biodiesel produced from Washington feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels for use in internal operations of the electric utility and for sale or distribution.

PART 3 ENERGY FREEDOM PROGRAM

Sec. 301. RCW 15.110.010 and 2006 c 171 s 2 are each amended to read as follows:

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

(1) "Applicant" means any political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations. "Applicant" may also include federally recognized tribes and state institutions of higher education with appropriate research capabilities.

(2) "Alternative fuel" means all products or energy sources used to propel motor vehicles, other than conventional gasoline, diesel, or reformulated gasoline. "Alternative fuel" includes, but is not limited to, cellulose, liquefied petroleum gas, liquefied natural gas, compressed natural gas, biofuels, biodiesel fuel, E85 motor fuel, fuels containing seventy percent or more by volume of alcohol fuel, fuels that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or electricity, excluding onboard electric generation.

(3) "Assistance" includes loans, leases, product purchases, or other forms of financial or technical assistance.

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~~((3))~~ (4) "Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

(5) "Biogas" includes waste gases derived from landfills and wastewater treatment plants and dairy and farm wastes.

(6) "Cellulose" means lignocellulosic, hemicellulosic, or other cellulosic matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

(7) "Coordinator" means the person appointed by the director of the department of community, trade, and economic development.

(8) "Department" means the department of ~~((agriculture))~~ community, trade, and economic development.

~~((4))~~ (9) "Director" means the director of the department of ~~((agriculture))~~ community, trade, and economic development.

~~((5))~~ (10) "Green highway zone" means an area in the state designated by the department that is within reasonable proximity of state route number 5, state route number 90, and state route number 82.

(11) "Peer review committee" means a board, appointed by the director, that includes bioenergy specialists, energy conservation specialists, scientists, and individuals with specific recognized expertise.

~~((6))~~ (12) "Project" means the construction of facilities, including the purchase of equipment, to convert farm products or wastes into electricity or gaseous or liquid fuels or other coproducts associated with such conversion. These specifically include fixed or mobile facilities to generate electricity or methane from the anaerobic digestion of organic matter, and fixed or mobile facilities for extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities associated with such conversion for the distribution and storage of such feedstocks and fuels.

~~((7))~~ (13) "Refueling project" means the construction of new alternative fuel refueling facilities, as well as upgrades and expansion of existing refueling facilities, that will enable these facilities to offer alternative fuels to the public.

(14) "Research and development project" means research and development, by an institution of higher education as defined in subsection (1) of this section, relating to:

(a) Bioenergy sources including but not limited to biomass and associated gases; or

(b) The development of markets for bioenergy coproducts.

Sec. 302. RCW 15.110.020 and 2006 c 171 s 3 are each amended to read as follows:

(1) The energy freedom program is established within the department. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) When reviewing applications submitted under this program, the director shall consult with those agencies and other public entities having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, ~~((the department of community, trade, and economic development,))~~ the department of natural resources, the department of agriculture, the department of general administration, local clean air authorities, and the Washington state conservation commission.

(3) Except as provided in subsection (4) of this section, the director, in cooperation with the department of ~~((community, trade, and economic development))~~ agriculture, may approve an application only if the director finds:

(a) The project will convert farm products ~~((or))~~, wastes, cellulose, or biogas directly into electricity or ~~((into gaseous or liquid fuels))~~ biofuel or other coproducts associated with such conversion;

(b) The project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The facility will produce long-term economic benefits to the state, a region of the state, or a particular community in the state;

(d) The project does not require continuing state support;

(e) The assistance will result in new jobs, job retention, or higher incomes for citizens of the state;

(f) The state is provided an option under the assistance agreement to purchase a portion of the fuel or feedstock to be produced by the project, exercisable by the department of general administration;

(g) The project will increase energy independence or diversity for the state;

(h) The project will use feedstocks produced in the state, if feasible, except this criterion does not apply to the construction of facilities used to distribute and store fuels that are produced from farm products or wastes;

(i) Any product produced by the project will be suitable for its intended use, will meet accepted national or state standards, and will be stored and distributed in a safe and environmentally sound manner;

(j) The application provides for adequate reporting or disclosure of financial and employment data to the director, and permits the director to require an annual or other periodic audit of the project books; and

(k) For research and development projects, the application has been independently reviewed by a peer review committee as defined in RCW 15.110.010 (as recodified by this act) and the findings delivered to the director.

(4) When reviewing an application for a refueling project, the coordinator may award a grant or a loan to an applicant if the director finds:

(a) The project will offer alternative fuels to the motoring public;

(b) The project does not require continued state support;

(c) The project is located within a green highway zone as defined in RCW 15.110.010 (as recodified by this act);

(d) The project will contribute towards an efficient and adequately spaced alternative fuel refueling network along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

(e) The project will result in increased access to alternative fueling infrastructure for the motoring public along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140.

(5)(a) The director may approve ~~((am))~~ a project application for assistance under subsection (3) of this section up to five million dollars. In no circumstances shall this assistance constitute more than fifty percent of the total project cost.

~~((5))~~ (b) The director may approve a refueling project application for a grant or a loan under subsection (4) of this section up to fifty thousand dollars. In no circumstances shall a grant or a loan award constitute more than fifty percent of the total project cost.

(6) The director shall enter into agreements with approved applicants to fix the terms and rates of the assistance to minimize the costs to the applicants, and to encourage establishment of a viable bioenergy or biofuel industry. The agreement shall include provisions to protect the state's investment, including a requirement that a successful applicant enter into contracts with any partners that may be involved in the use of any assistance provided under this program, including services, facilities, infrastructure, or equipment. Contracts with any partners shall become part of the application record.

~~((6))~~ (7) The director may defer any payments for up to twenty-four months or until the project starts to receive revenue from operations, whichever is sooner.

Sec. 303. RCW 15.110.040 and 2006 c 171 s 5 are each amended to read as follows:

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(1) If the total requested dollar amount of assistance awarded for projects under RCW 15.110.020(3) (as recodified by this act) exceeds the amount available in the energy freedom account created in RCW 15.110.050 (as recodified by this act), the applications must be prioritized based upon the following criteria:

((+)) (a) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

((+)) (b) The extent to which the project will reduce air and water pollution either directly or indirectly;

((+)) (c) The extent to which the project will establish a viable bioenergy or biofuel production capacity in Washington;

((+)) (d) The benefits to Washington's agricultural producers; ~~and~~

(5)) (e) The benefits to the health of Washington's forests;

(f) The beneficial uses of biogas; and

(g) The number and quality of jobs and economic benefits created by the project.

(2) This section does not apply to grants or loans awarded for refueling projects under RCW 15.110.020(4) (as recodified by this act).

NEW SECTION. Sec. 304. If the total requested dollar amount of funds for refueling projects under RCW 15.110.020(4) (as recodified by this act) exceeds the amount available for refueling projects in the energy freedom account created in RCW 15.110.050 (as recodified by this act), the applications must be prioritized based upon the following criteria:

(1) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

(2) The extent to which the project will reduce air and water pollution either directly or indirectly;

(3) The extent to which the project will establish a viable bioenergy production capacity in Washington;

(4) The extent to which the project will make biofuels more accessible to the motoring public;

(5) The benefits to Washington's agricultural producers; and

(6) The number and quality of jobs and economic benefits created by the project.

Sec. 305. RCW 15.110.050 and 2006 c 371 s 223 are each amended to read as follows:

(1) The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for assistance for projects consistent with this chapter or otherwise authorized by the legislature. ~~(Administrative costs of the department may not exceed three percent of the total funds available for this program.)~~

(2) The green energy incentive account is created in the state treasury as a subaccount of the energy freedom account. All receipts from appropriations made to the green energy incentive account shall be deposited into the account, and may be spent only after appropriation. Expenditures from the account may be used only for:

(a) Refueling projects awarded under this chapter;

(b) Pilot projects for plug-in hybrids, including grants provided for the electrification program set forth in section 408 of this act;

(c) Programs to reduce truck stop idling;

(d) Demonstration projects developed with a science museum for the purpose of bringing science education to children by way of a mobile learning vehicle; and

(e) Demonstration projects developed with the University of Washington that result in the design and building of a hydrogen vehicle fueling station.

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(3) Any state agency receiving funding from the energy freedom account is prohibited from retaining greater than three percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce unless this provision is waived in writing by the director.

(4) Any university, institute, or other entity that is not a state agency receiving funding from the energy freedom account is prohibited from retaining greater than fifteen percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce.

(5) This section does not apply to assistance awarded for projects under RCW 15.110.020(3) (as recodified by this act).

Sec. 306. RCW 15.110.060 and 2006 c 171 s 7 are each amended to read as follows:

The director shall report to the legislature and governor on the status of the energy freedom program created under this chapter, on or before December 1, 2006, and annually thereafter. This report must include information on the projects that have been funded, the status of these projects, and their environmental, energy savings, and job creation benefits as well as an assessment of the availability of alternative fuels in the state and best estimates to indicate, by percentage, the types of biofuel feedstocks and sources that contribute to biofuels used in the state and the general geographic origination of such feedstocks and sources. Based on analysis of this information, the report must also recommend appropriate mechanisms, including but not limited to changes in state contracting practices, tax incentives, or renewable fuel standard provisions, that will help Washington farmers and businesses compete in an economically viable manner and will encourage sustained development of an in-state biofuels industry based on feedstocks grown and produced in Washington.

NEW SECTION. Sec. 307. (1) Energy freedom program projects funded pursuant to RCW 15.110.050 (as recodified by this act) or by the legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006 for which the department of agriculture has signed loan agreements and disbursed funds prior to June 30, 2007, shall continue to be serviced by the department of agriculture.

(2) Energy freedom program projects funded pursuant to RCW 15.110.050 (as recodified by this act) or by the legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006 for which moneys have been appropriated but loan agreements or disbursements have not been completed must be transferred to the department for project management on July 1, 2007, subject to the ongoing requirements of the energy freedom program.

PART 4 PLANNING FOR THE FUTURE

NEW SECTION. Sec. 401. (1) The department of ecology and the department of community, trade, and economic development, in implementing executive order number 07-02 shall include an analysis of, and potential for, vehicle electrification. That analysis may include:

(a) Use by the state of plug-in hybrid vehicles and developing plug-in availability at state locations;

(b) Incentives to encourage the use of plug-in truck auxiliary power units and truck stop electrification;

(c) Use of plug-in shore power for cargo and cruise ship terminals, shipside technology, and use of electric power alternatives for port-related operations and equipment such as switching locomotives, vessels and harborcraft, and cargo-handling equipment;

(d) Potential uses for and availability of plug-in hybrid school buses;

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(e) Potential environmental and electrical grid impacts on electrical power consumption of the conversion of a meaningful portion of the state's private and public fleet to plug-in electrical power;

(f) Tax and fee incentives to encourage individual and fleet purchases of plug-in hybrid vehicles;

(g) State laws, rules, tariffs, and policies that impact transportation electrification and plug-in adoption, including pricing with incentives for off-peak charging;

(h) Measures to encourage the use of plug-in vehicles by public fleets, and resulting cost savings, and whether state and local fleets should be required to purchase plug-in hybrid vehicles if it is determined that plug-in hybrid vehicles are commercially available at a reasonably comparable life-cycle cost;

(i) Explore the potential for the use of electrification of fixed transit routes for magnetic levitation propulsion systems;

(j) Actions by the state to help industries located in the state participate in developing and manufacturing plug-in vehicles and vehicle-to-grid technologies;

(k) Additional ways the state can promote transportation electrification in the private and public sectors, including cars and light-duty vehicles, and truck stop and port electrification; and

(1) Potential partners for vehicle-to-grid pilot projects that test the use of parked plug-in vehicles for power grid energy storage and support.

(2) The departments of ecology and community, trade, and economic development shall provide the appropriate committees of the legislature an analysis or report by March 1, 2008. The report may be included within the report produced for executive order number 07-02.

NEW SECTION. Sec. 402. A new section is added to chapter 28B.30 RCW to read as follows:

Washington State University is directed to analyze and recommend models for possible implementation by the legislature or the executive office for at least the following potential biofuels incentive programs:

(1) Market incentives to encourage in-state production of brassa-based biodiesel, and cellulosic ethanol, including such market methods as direct grants, production tax credits, and the issuance by the state of advance guaranteed purchase contracts;

(2) Possible preferred research programs, grants, or other forms of assistance for accelerating the development of in-state production of cellulosic ethanol and in-state biodiesel crops and their coproducts; and

(3) The following should be considered when evaluating potential biofuel incentive programs:

(a) Assisting Washington farmers and businesses in the development of economically viable, sustained in-state biofuel and biofuel feedstock production;

(b) Leveraging and encouraging private investment in biofuel production and distribution and biofuel feedstock production; and

(c) Assisting in the development of biofuel feedstocks and production techniques that deliver the greatest net reductions in petroleum dependence and carbon emissions.

NEW SECTION. Sec. 403. (1) The department of community, trade, and economic development and the department of ecology shall develop a framework for the state of Washington to participate in emerging regional, national, and to the extent possible, global markets to mitigate climate change, on a multisector basis. This framework must include, but not be limited to, credible, verifiable, replicable inventory and accounting methodologies for each sector involved, along with the completion of the stakeholder process identified in executive order number 07-02 creating the Washington state climate change challenge.

(2) The department of community, trade, and economic development and the department of ecology shall include the

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forestry sector and work closely with the department of natural resources on those recommendations.

(3) The department must provide a report to the legislature by December 1, 2008. The report may be included within the report produced for executive order number 07-02.

NEW SECTION. Sec. 404. (1) In preparing for the impacts of climate change consistent with executive order number 07-02, the departments of community, trade, and economic development and ecology shall work with the climate impacts group at the University of Washington to produce:

(a) A comprehensive state climate change assessment that includes the impacts of global warming, including impacts to public health, agriculture, the coast line, forestry, infrastructure, and water supply and management;

(b) An analysis of the potential human health impacts of climate change on the state of Washington.

(2) To ensure the appropriateness of these assessments for public agency planning and management, the departments and the climate impacts group shall consult with state and local public health resource planning and management agencies.

(3) If adequate funding is not made available for the completion of all elements required under this section, the departments and the climate impacts group shall list and prioritize which research projects have the greatest cost/benefit ratio in terms of providing information important for planning decisions.

(4) The work under this section that is completed by December 1, 2007, must be included in the final report of the Washington climate change challenge. Any further reports must be completed by December 15, 2008.

Sec. 405. RCW 47.17.020 and 1970 ex.s. c 51 s 5 are each amended to read as follows:

A state highway to be known as state route number 5, and designated as a Washington green highway, is established as follows:

Beginning at the Washington-Oregon boundary line on the interstate bridge over the Columbia river at Vancouver, thence northerly by way of Kelso, Chehalis, Centralia, Olympia, Tacoma, Seattle, Everett and Mt. Vernon, thence northwesterly to the east of Lake Samish, thence northeasterly and northerly by way of Bellingham to the international boundary line in the vicinity of Blaine in Whatcom county.

Sec. 406. RCW 47.17.135 and 1979 ex.s. c 33 s 3 are each amended to read as follows:

A state highway to be known as state route number 82, and designated as a Washington green highway, is established as follows:

Beginning at a junction with state route number 90 in the vicinity of Ellensburg, thence southerly and easterly by way of Yakima, Union Gap, Sunnyside, Prosser, Kiona, and Goose Gap west of Richland, thence southeasterly near Kennewick and southwesterly by way of the vicinity of Plymouth to a crossing of the Columbia river at the Washington-Oregon boundary line.

Sec. 407. RCW 47.17.140 and 1991 c 56 s 2 are each amended to read as follows:

A state highway to be known as state route number 90, and designated as the American Veterans Memorial Highway as well as a Washington green highway, is established as follows:

Beginning at a junction with state route number 5, thence, via the west approach to the Lake Washington bridge in Seattle, in an easterly direction by way of Mercer Island, North Bend, Snoqualmie pass, Ellensburg, Vantage, Moses Lake, Ritzville, Sprague and Spokane to the Washington-Idaho boundary line.

NEW SECTION. Sec. 408. (1) The vehicle electrification demonstration grant program is established within the department of community, trade, and economic development. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) The director may approve an application for a vehicle electrification demonstration project only if the director finds:

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(a) The applicant is a state agency, public school district, public utility district, or a political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations or a state institution of higher education;

(b) The project partially funds the purchase of or conversion of existing vehicles to plug-in hybrid electric vehicles or battery electric vehicles for use in the applicant's fleet or operations;

(c) The project partners with an electric utility and demonstrates technologies to allow controlled vehicle charging, including the use of power electronics or wireless technologies, to regulate time-of-day and duration of charging;

(d) The project provides matching resources; and

(e) The project provides evaluation of fuel savings, greenhouse gas reductions, battery capabilities, energy management system, charge controlling technologies, and other relevant information determined on the advice of the vehicle electrification work group.

(3) The director may approve an application for a vehicle electrification demonstration project if the project, in addition to meeting the requirements of subsection (2) of this section, also demonstrates charging using on-site renewable resources or vehicle-to-grid capabilities that enable the vehicle to discharge electricity into the grid.

NEW SECTION. Sec. 409. A new section is added to chapter 43.19 RCW to read as follows:

(1) During the biennium ending June 30, 2009, the department of general administration is authorized to purchase at least one hundred plug-in electric hybrid vehicles for state agency light duty vehicle uses, when commercially available at comparable life costs to other vehicles. The department of general administration shall assign these vehicles to departments and job functions that on average log the most miles driving light duty vehicles. The vehicles must bear a prominent designation as a plug-in electric hybrid vehicle. The department of general administration shall develop a purchasing contract under which state agencies and local governments may purchase plug-in electric hybrid vehicles.

(2) The use of hybrid vehicles shall include an economic analysis of the total life-cycle cost to the state over the vehicle's estimated useful life, including energy inputs into the production of the vehicle, fuel usage, and all related costs of selection, acquisition, operation, maintenance, and disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of the vehicle's estimated useful life.

(3) By December 31, 2009, the department of general administration shall provide a report to the transportation and energy committees of the senate and house of representatives on the acquisition of these vehicles and their operational and maintenance performance.

NEW SECTION. Sec. 410. (1) The office of Washington state climatologist is created.

(2) The office of Washington state climatologist consists of the director of the office, who is the state climatologist, and appropriate staff and administrative support as necessary to carry out the powers and duties of the office as enumerated in section 411 of this act.

(3) The director of the office of Washington state climatologist must be appointed jointly by the president of Washington State University and the president of the University of Washington. The office of Washington state climatologist is administered as determined jointly by these two presidents.

NEW SECTION. Sec. 411. The office of Washington state climatologist has the following powers and duties:

(1) To serve as a credible and expert source of climate and weather information for state and local decision makers and agencies working on drought, flooding, climate change, and other related issues;

(2) To gather and disseminate, and where practicable archive, in the most cost-effective manner possible, all climate

and weather information that is or could be of value to policy and decision makers in the state;

(3) To act as the representative of the state in all climatological and meteorological matters, both within and outside of the state, when requested by the legislative or executive branches of the state government;

(4) To prepare, publish, and disseminate climate summaries for those individuals, agencies, and organizations whose activities are related to the welfare of the state and are affected by climate and weather;

(5) To supply critical information for drought preparedness and emergency response as needed to implement the state's drought contingency response plan maintained by the department of ecology under RCW 43.83B.410, and to serve as a member of the state's drought water supply and emergency response committees as may be formed in response to a drought event;

(6) To conduct and report on studies of climate and weather phenomena of significant socioeconomic importance to the state; and

(7) To evaluate the significance of natural and man-made changes in important features of the climate affecting the state, and to report this information to those agencies and organizations in the state who are likely to be affected by these changes.

NEW SECTION. Sec. 412. (1) The legislature finds that:

(a) Washington is especially vulnerable to climate change because of the state's dependence on snow pack for summer stream flows and because the expected rise in sea levels threatens our coastal communities. Extreme weather, a warming Pacific Northwest, reduced snow pack, and sea level rise are four major ways that climate change is disrupting Washington's economy, environment, and communities;

(b) Washington's greenhouse gas emissions are continuing to increase, despite international scientific consensus that worldwide emissions must be reduced significantly below current levels to avert catastrophic climate change;

(c) Washington has been a leader in actions to reduce the increase of emissions, including the adoption of the nation's most stringent carbon dioxide mitigation program for new thermal electric generation facilities, a requirement for integrated resource planning by electric utilities to include life-cycle costs of carbon dioxide emissions, clean car standards, stronger appliance energy efficiency standards, increased production and use of renewable liquid fuels, and increased renewable energy sources by electrical utilities;

(d) Washington state's greenhouse gases are substantially caused by the transportation sector of the economy;

(e) Washington has participated with other Western states in designing regional approaches to reduce greenhouse gas emissions, and a regional cap and trade mechanism will be more effective than if implemented separately in each state;

(f) While these actions are significant, there is a need to assess the trend of emissions statewide over the next several decades, and to take sufficient actions so that Washington meets its responsibility to contribute to the global actions needed to reduce the impacts and the pace of global warming;

(g) Actions to reduce greenhouse gas emissions will spur technology development and increase efficiency, thus resulting in benefits to Washington's economy and businesses; and

(h) Numerous states and nations have adopted emission reduction goals to assist emission sources with planning for changes in practices and technologies.

(2) The legislature further finds that companies that generate greenhouse gas emissions or manufacture products that generate such emissions are purchasing carbon credits from landowners and from other companies in order to provide carbon credits. Companies that are purchasing carbon credits would benefit from a program to trade and to bank carbon credits. Washington forests are one of the most effective resources that can absorb carbon dioxide from the atmosphere. Forests, and other planted

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lands and waters, provide carbon storage and mitigate greenhouse gas emissions. Washington contains the most productive forests in the world and both public and private landowners could benefit from a carbon storage trading and banking program. The legislature further finds that catastrophic forest fires are a major source of greenhouse gas emissions, and that federal and state forest land management should seek to manage forests to reduce the risk of such fires.

(3) The legislature intends by this act to establish goals for the statewide reduction in greenhouse gas emissions and reduction in petroleum use, and to adopt the governor's mechanism in Executive Order No. 07-02 to design and recommend a comprehensive set of measures to accomplish the goals. The legislature further intends by this act to authorize immediate actions in the electric power generation sector for the reduction of greenhouse gas emissions and to accelerate efficiency in the transportation sector.

NEW SECTION. Sec. 413. The following greenhouse gas emissions reduction and clean energy economy goals are established for Washington state:

(1) By 2020, reduce greenhouse gas emissions in the state to 1990 levels;

(2) By 2035, reduce greenhouse gas emissions in the state to twenty-five percent below 1990 levels;

(3) By 2050, the state will do its part to reach global climate stabilization levels by reducing emissions to fifty percent below 1990 levels or seventy percent below the state's expected emissions that year;

(4) By 2020, increase the number of clean energy sector jobs to twenty-five thousand from the eight thousand four hundred jobs the state had in 2004; and

(5) By 2020, reduce expenditures by twenty percent on fuel imported into the state by developing Washington resources and supporting efficient energy use.

NEW SECTION. Sec. 414. (1) Executive Order No. 07-02 shall provide the mechanisms for identifying the policies and strategies necessary to achieve the economic and emission reduction goals of section 413 of this act. Consistent with the Executive Order's directive to seek a healthier and more prosperous future for Washington state, agency and stakeholder representatives participating in the Washington climate change challenge shall also seek emission reduction policies and strategies that, to the maximum extent possible, minimize economic disruptions and protect jobs for Washington state workers, citizens, and businesses, while avoiding policies and strategies that would result in the transfer or outsourcing of economic advantages or jobs to other states, regions, or nations.

(2) In addition to the policies and strategies that the climate change stakeholder group shall develop for the governor and the legislature, the group shall:

(a) Identify economic and regulatory incentives to encourage the replacement of the highest emitting thermal electric plants in the state that have exceeded their expected useful life with newer technologies that have lower greenhouse gases emission levels to facilitate meeting the goals established in this section; and

(b) Identify methods to utilize indigenous resources, such as landfill gas, geothermal resources, and other assets that might reduce greenhouse gases emissions consistent with the purposes of this section.

NEW SECTION. Sec. 415. By December 31st of each even-numbered year beginning in 2010, the departments of ecology and community, trade, and economic development shall report to the governor and the appropriate committees of the senate and house of representatives the total greenhouse gas emissions for the preceding two years, and totals in each major source sector.

NEW SECTION. Sec. 416. (1) The legislature finds that:

(a) The United Nation's intergovernmental panel on climate change report, released February 2, 2007, states that evidence of the climate's warming "is unequivocal, as is now evident from

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observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global mean sea level";

(b) Global warming will have serious adverse consequences on the economy, health, and environment of Washington;

(c) During the last several years, the state has taken significant strides towards implementing an environmentally and economically sound energy policy through reliance on energy efficiency, conservation, and renewable energy resources in order to promote a sustainable energy future that ensures an adequate and reliable energy supply at reasonable and stable prices;

(d) The governor, in Executive Order No. 07-02, has called for the reduction of Washington's emission of greenhouse gases to 1990 levels by 2020;

(e) To the extent energy efficiency and renewable resources are unable to satisfy increasing energy and capacity needs, the state will rely on clean and efficient fossil fuel fired generation and will encourage the development of cost-effective, highly efficient, and environmentally sound supply resources to provide reliability and consistency with the state's energy priorities;

(f) It is vital to ensure all electric utilities internalize the significant and underrecognized cost of emissions and to reduce Washington's exposure to costs associated with future regulation of these emissions;

(g) A greenhouse gases emissions performance standard for new long-term financial commitments to electric generating resources will reduce potential exposure of Washington's consumers to future reliability problems in electricity supplies;

(h) The state of California recently enacted a law establishing a greenhouse gases emissions performance standard for electric utility procurement of baseload electric generation that is based on the emissions of a combined-cycle thermal electric generation facility fueled by natural gas;

(i) The legislature recognizes that state or federal legislation may be enacted and federal regulation may occur that would provide standards or programs that would preempt, make inconsistent, or render unnecessary emission standards or schedules established in this act; and

(j) The state of Washington has an obligation to provide clear guidance for the procurement of baseload electric generation to alleviate regulatory uncertainty while addressing risks that can affect the ability of electric utilities to make necessary and timely investments to ensure an adequate, reliable, and cost-effective supply of electricity.

(2) The legislature declares that:

(a) A greenhouse gases emissions performance standard for new long-term financial commitments for baseload electric generation should reduce financial risk to electric utilities and their customers from future pollution-control costs, without jeopardizing the state's commitment to lowest reasonable cost resources and the need to maintain a reliable regional electric system.

(b) A greenhouse gases emissions performance standard will complement the state's carbon dioxide mitigation policy for fossil-fueled thermal electric generation facilities under chapter 80.70 RCW.

(c) The need for long-term financial commitments for new baseload electric generation can be reduced over time through the deployment by electric utilities of technologies that improve the efficiency of electricity production, transmission, distribution, and consumption.

NEW SECTION. Sec. 417. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for consumer-owned utilities under its jurisdiction; or (b) an independent auditor selected by a

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consumer-owned utility that is not under the jurisdiction of the state auditor.

(3) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(4) "Cogeneration facility" means a power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(5) "Combined-cycle natural gas thermal electric generation facility" means a power plant that employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(6) "Commercially available" means that at least one hundred plants of substantially the same design, specifications, and performance characteristics have been in commercial operation for at least three years.

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

(8) "Consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(9) "Department" means the department of ecology.

(10) "Distributed generation" has the same meaning as defined in RCW 19.285.030.

(11) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(12) "Electric utility" means an electrical company or a consumer-owned utility.

(13) "Governing board" means the board of directors or legislative authority of a consumer-owned utility.

(14) "Greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(15) "Injected permanently" means the carbon dioxide injected into a geological formation will remain in the target geological formation with only de minimis leakage, as demonstrated using site-specific data.

(16) "Long-term financial commitment" means:

(a) Either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or

(b) A new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

(17) "Output-based methodology" means a greenhouse gases emissions performance standard that is expressed in pounds of greenhouse gases emitted per net megawatt-hour produced. For purposes of this subsection, "net" refers to the difference between the heat energy dedicated to power production and the electrical equivalent of useful thermal energy employed for purposes other than the generation of electricity.

(18) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt-hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt-hours.

(19) "Power plant" means a facility for the generation of electricity that includes one or more generating units at the same location.

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(20) "Unspecified sources" means baseload electric generation supplied under a power purchase agreement that does not specify or otherwise identify the power plant or power plants that are the source of power delivered to an electric utility.

(21) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility. "Upgrade" does not include routine or necessary maintenance, installation of emission control equipment, installation, replacement, or modification of equipment that improves the heat rate of the facility, or installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in generation air quality permits that are in effect on the effective date of this section but may result in incidental increases in generation capacity.

NEW SECTION. Sec. 418. (1) Beginning July 1, 2008, the greenhouse gases emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments on or after such date is the lower of:

(a) One thousand one hundred pounds of greenhouse gases per megawatt-hour; or

(b) The rate of emissions of greenhouse gases for a commercially available combined-cycle natural gas thermal electric generation facility that provides baseload electric generation.

(2) Even if their actual emissions are higher than the greenhouse gas emissions performance standard, all baseload electric generation facilities in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section until the facilities are the subject of long-term financial commitments.

(3) All electric generating facilities or power plants powered by renewable resources, as defined in RCW 19.285.030, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section.

(4) All electric generating facilities or power plants, including cogeneration, that use either exclusively or in combination with a renewable resource, as defined in RCW 19.285.030, fuel that is a byproduct of pulping or wood manufacturing processes, including but not limited to bark, sawdust, and lignin in spent pulping liquors, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section.

(5) In determining the rate of emissions of greenhouse gases for baseload electric generation, the total emissions associated with producing electricity shall be included.

(6) The department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for a cogeneration facility recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy. In developing and implementing the greenhouse gases emissions performance standard, the department shall consider and act in a manner consistent with any rules adopted pursuant to the public utilities regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(7) Carbon dioxide emissions produced by baseload electric generation owned or contracted through a long-term financial commitment that are injected permanently in geological formations or that are permanently sequestered by other means approved by the department shall not be counted as emissions of the power plant in determining compliance with the greenhouse gases emissions performance standard.

(8) In adopting and implementing the greenhouse gases emissions performance standard, the department, in consultation with the commission, the Bonneville power administration, the western electricity coordination council, the energy facility site evaluation council, the department of community, trade, and economic development energy policy division, electric utilities,

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public interest representatives, and consumer representatives shall consider the effects of the greenhouse gases emissions performance standard on system reliability and overall costs to electricity customers.

(9) In developing and implementing the greenhouse gases emissions performance standard, the department shall, with assistance of the commission, the department of community, trade, and economic development energy policy division, and electric utilities, and to the extent practicable, address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

(10) The department shall adopt the greenhouse gases emissions performance standard by rule pursuant to chapter 34.05 RCW, the administrative procedure act. The department shall adopt rules to enforce the requirements of this section, and adopt procedures to verify the emissions of greenhouse gases from any baseload electric generation supplied directly or under a contract subject to the greenhouse gases emissions performance standard to ensure compliance with the standard. Enforcement of the greenhouse gases emissions performance standard must begin immediately upon the establishment of the standard.

(11) In adopting the rules for implementing this section, the department shall include criteria to be applied in evaluating the carbon sequestration plan. The rules shall include but not be limited to:

(a) Provisions for financial assurances, as a condition of plant operation, sufficient to ensure successful implementation of the carbon sequestration plan, including construction and operation of necessary equipment, and any other significant costs;

(b) Provisions for geological or other approved sequestration commencing within five years of plant operation, including full and sufficient technical documentation to support the planned sequestration;

(c) Provisions for monitoring the effectiveness of the implementation of the sequestration plan;

(d) Penalties for failure to achieve implementation of the plan on schedule; and

(e) Provisions for public notice and comment on the carbon sequestration plan.

(12)(a) Except as provided in (b) of this subsection, as part of its role enforcing the greenhouse gases emissions performance standard, the department shall determine whether a plan for sequestration will provide safe, reliable, and permanent protection against the greenhouse gases entering the atmosphere from the power plant and all ancillary facilities.

(b) For facilities under its jurisdiction, the energy facility site evaluation council shall contract for review of the carbon sequestration plan with the department, consider the adequacy of the plan in its adjudicative proceedings conducted under RCW 80.50.090(3) and incorporate specific findings regarding adequacy in its recommendation to the governor under RCW 80.50.100.

(13) A project under consideration by the energy facility site evaluation council before the adoption of rules in subsection (11) of this section is required to include all of the requirements of subsection (11) of this section in its carbon sequestration plan submitted as part of the energy facility site evaluation council process.

(14) The department shall adopt the rules necessary to implement this section by June 30, 2008.

NEW SECTION. Sec. 419. (1) No electrical company may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 418 of this act.

(2) In order to enforce the requirements of this chapter, the commission shall review in a general rate case or as provided in subsection (5) of this section any long-term financial commitment entered into by an electrical company after June 30,

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2008, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 418 of this act.

(3) In determining whether a long-term financial commitment is for baseload electric generation, the commission shall consider the design of the power plant and its intended use, based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the commission determines is relevant under the circumstances.

(4) Upon application by an electrical company, the commission may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) Upon application by an electrical company, the commission shall make a determination regarding the company's proposed decision to acquire electric generation or enter into a power purchase agreement for electricity that complies with the greenhouse gases emissions performance standard established under section 418 of this act, as to the need for the resource, and the appropriateness of the specific resource selected. The commission shall take into consideration factors such as the company's forecasted loads, need for energy, power plant technology, expected costs, and other associated investment decisions. In addition, the commission shall provide for recovery of the prudently incurred capital and operating cost of these resources and may impose such conditions as it finds necessary to ensure that rates are fair, just, reasonable, and sufficient, coincident with the in-service date of the project or the effective date of the power purchase agreement.

(6) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with the long-term financial commitment, including operating and maintenance costs, depreciation, taxes, and cost of invested capital. The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and ends on the effective date of the final decision by the commission regarding recovery in rates of these deferred costs. Creation of such a deferral account does not by itself determine whether recovery of any or all of these costs is appropriate.

(7) In establishing rates for each electrical company regulated under chapter 80.28 RCW, the commission shall adopt policies allowing an additional return on investments to encourage meeting energy requirements through distributed generation as defined in RCW 19.285.030, and to accelerate efficiencies in electric transmission and distribution systems that increase reliability and reduce energy losses or otherwise increase the efficiency of energy delivery to end-use consumers. These policies shall include but are not limited to adding an increment of two percent to the rate of return on common equity permitted on an electrical company's other investments for prudently incurred investments in distributed generation, and in measures that improve, as measured in kilowatt-hour savings, the overall efficiency of transmission, distribution, and end-use consumption of electricity through energy efficiency technologies, including any device, instrument, machine, appliance, or process related to the transmission, distribution, and consumption of electricity to increase energy efficiency, including but not limited to smart grid technology, smart meters, and demand response technologies. The rate of return increment must be allowed for a period, at the commission's discretion, of at least seven but not more than thirty years after the investment is first placed in the rate base. Measures or projects encouraged under this section are those for which construction or installation is begun after July 1, 2007, and before January 1, 2017, and which, at the time they are placed in the rate base, are reasonably expected to save, produce, or generate energy at a

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total incremental system cost per unit of energy delivered to end use that is less than or equal to the incremental system cost per unit of energy delivered to end use from new baseload or peaking electric generation and that the electrical company could acquire to meet energy demand in the same time period.

(8) The commission shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under section 418 of this act.

(9) The commission shall adopt rules for the enforcement of this section with respect to electrical companies and adopt procedural rules for approving costs incurred by an electrical company under subsection (4) of this section.

(10) The commission shall adopt the rules necessary to implement this section by December 31, 2008.

NEW SECTION. Sec. 420. (1) No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 418 of this act.

(2) The governing board of a consumer-owned utility shall review and make a determination on any long-term financial commitment by the utility, pursuant to this chapter, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 418 of this act. No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 418 of this act.

(3) In confirming that a long-term financial commitment is for baseload electric generation, the governing board shall consider the design of the power plant and the intended use of the power plant based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the governing board determines is relevant under the circumstances.

(4) The governing board may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) The governing board shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation pursuant to section 418 of this act, and may request assistance from the department in doing so.

(6) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

NEW SECTION. Sec. 421. A new section is added to chapter 43.19 RCW to read as follows:

(1) During the biennium ending June 30, 2009, the department of general administration is authorized to purchase at least one hundred plug-in electric hybrid vehicles for state agency light duty vehicle uses, when commercially available at comparable life costs to other vehicles. The department of general administration shall assign these vehicles to departments and job functions that on average log the most miles driving light duty vehicles. The vehicles must bear a prominent designation as a plug-in electric hybrid vehicle. The department of general administration shall develop a purchasing contract under which state agencies and local governments may purchase plug-in electric hybrid vehicles.

(2) Any agency that owns plug-in hybrid vehicles shall contribute data to an economic analysis of the total life-cycle cost to the state over the vehicle's estimated useful life, including energy inputs into the production of the vehicle, fuel usage, and all related costs of selection, acquisition, operation, maintenance, and disposal, as far as these costs can reasonably

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be determined, minus the salvage value at the end of the vehicle's estimated useful life.

(3) By December 31, 2009, the department of general administration shall provide a report to the transportation and energy committees of the senate and house of representatives on the acquisition of these vehicles and their operational and maintenance performance.

NEW SECTION. Sec. 422. The legislature finds and declares that greenhouse gases offset contracts, credits, and other greenhouse gases mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers. The legislature declares that this act is intended to reverse the result of *Okeson v. City of Seattle*, No. 77888-4 (January 18, 2007), by expressly granting municipal utilities and public utility districts the statutory authority to engage in mitigation activities to offset their utility's impact on the environment.

NEW SECTION. Sec. 423. A new section is added to chapter 35.92 RCW to read as follows:

(1) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with electricity for lighting and other purposes may develop and make publicly available a plan to reduce its greenhouse gases emissions or achieve no-net emissions from all sources of greenhouse gases that the utility owns, leases, uses, contracts for, or otherwise controls.

(2) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with electricity for lighting and other purposes may, as part of its utility operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its operation and any power purchases. The mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits. If a state greenhouse gases registry is established, a utility that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry.

NEW SECTION. Sec. 424. A new section is added to chapter 54.16 RCW to read as follows:

(1) A public utility district may develop and make publicly available a plan for the district to reduce its greenhouse gases emissions or achieve no-net emissions from all sources of greenhouse gases that the district owns, leases, uses, contracts for, or otherwise controls.

(2) A public utility district may, as part of its utility operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its operation and any power purchases. Mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits. If a state greenhouse gases registry is established, a public utility district that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry.

NEW SECTION. Sec. 425. A new section is added to chapter 82.16 RCW to read as follows:

(1) Subject to the limitations in this section, an eligible light and power business may claim a credit against the tax imposed under this chapter.

(2) The amount of credit is equal to two percent of the amount of qualifying investments made each fiscal year beginning July 1, 2007, in distributed generation, and in measures that improve, as measured in kilowatt-hour savings, the overall efficiency of transmission, distribution, and end-use consumption of electricity through energy efficiency technologies, including any device, instrument, machine, appliance, or process related to the transmission, distribution,

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and consumption of electricity to increase energy efficiency, including but not limited to smart grid technology, smart meters, and demand response technologies.

(3) The credit may be claimed only after the qualifying investment has been made. The credit shall be claimed against taxes due for the same fiscal year in which the qualifying investment has been made. The credit for each reporting period shall not exceed the amount of tax otherwise due under this chapter for the reporting period. Credits earned for any fiscal year shall not be carried forward or backward and claimed against taxes due for prior or subsequent fiscal years. Refunds may not be granted in the place of a credit. Any unused credit expires.

(4) The total amount of credit that may be taken by an eligible light and power business for qualifying investments in a fiscal year is limited to its base credit plus any ratable portion of unused base credit as calculated by the department. The balance of base credits not used by other eligible light and power businesses may be ratably distributed to qualifying applicants under the formula in subsection (7)(a) of this section. The total credit shall be claimed against taxes due for the same fiscal year in which the qualifying investments are made.

(5) The total amount of credit, statewide, that may be taken in any fiscal year shall not exceed one million dollars.

(6) The department of community, trade, and economic development shall determine and certify to the department those investments made by an eligible light and power business that qualify for the credit under this section.

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

(a) "Base credit" means the maximum amount of credit against the tax imposed by this chapter that each eligible light and power business may take each fiscal year as calculated by the department. The base credit is equal to the proportionate share of in-state retail electricity revenues received by each eligible light and power business in the prior fiscal year that bears to the total amount of in-state retail electricity revenues received by all eligible light and power businesses in the prior fiscal year multiplied by one million dollars.

(b) "Eligible light and power business" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(c) "Qualifying investment" means investments in distributed generation, and those measures under subsection (2) of this section which, at the time they are placed in the rate base, are reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end use that is less than or equal to the incremental system cost per unit of energy delivered to end use from new baseload or peaking electric generation and that the eligible light and power business could acquire to meet energy demand in the same time period.

(8) This section expires July 1, 2037.

NEW SECTION. Sec. 426. For the purposes of sections 416 through 420 of this act, the department and the commission shall review the greenhouse gases emission performance standard established in this chapter to determine need, applicability, and effectiveness no less than every five years following the effective date of this section, or upon implementation of a federal or state law or rule regulating carbon dioxide emissions of electrical utilities, and report to the legislature.

PART 5 MISCELLANEOUS

NEW SECTION. Sec. 501. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 502. The following sections are codified and recodified as a new chapter in Title 43 RCW entitled "Energy Freedom Program":

RCW 15.110.005;
RCW 15.110.010;
RCW 15.110.020;
RCW 15.110.030;
RCW 15.110.040;
RCW 15.110.050;
RCW 15.110.060;
RCW 15.110.900;
RCW 15.110.901;
Section 204 of this act;
Section 205 of this act;
Section 304 of this act;
Section 307 of this act; and
Section 403 of this act.

NEW SECTION. Sec. 503. Sections 410 and 411 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 504. Sections 412 through 415 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 505. Sections 416 through 420 and 426 of this act constitute a new chapter in Title 80 RCW.

NEW SECTION. Sec. 506. A new section is added to chapter 43.135 RCW to read as follows:

RCW 43.135.035(4) does not apply to the transfers established in this act.

NEW SECTION. Sec. 507. Sections 204 and 301 through 307 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."

On page 1, line 3 of the title, after "emissions;" strike the remainder of the title and insert "amending RCW 70.94.017, 53.08.040, 43.19.642, 15.110.010, 15.110.020, 15.110.040, 15.110.050, 15.110.060, 47.17.020, 47.17.135, and 47.17.140; adding a new section to chapter 28A.300 RCW; adding new sections to chapter 43.19 RCW; adding a new section to chapter 43.01 RCW; adding a new section to chapter 89.08 RCW; adding a new section to chapter 35.21 RCW; adding new sections to chapter 35.92 RCW; adding a new section to chapter 54.04 RCW; adding a new section to chapter 28B.30 RCW; adding a new section to chapter 54.16 RCW; adding a new section to chapter 82.16 RCW; adding a new section to chapter 43.135 RCW; adding new chapters to Title 43 RCW; adding a new chapter to Title 80 RCW; creating new sections; recodifying RCW 15.110.005, 15.110.010, 15.110.020, 15.110.030, 15.110.040, 15.110.050, 15.110.060, 15.110.900, and 15.110.901; providing an effective date; providing an expiration date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Poulsen to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1303.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that excessive dependence on fossil fuels jeopardizes Washington's economic security, environmental integrity, and public health.

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Accelerated development and use of clean fuels and clean vehicle technologies will reduce the drain on Washington's economy from importing fossil fuels. As fossil fuel prices rise, clean fuels and vehicles can save consumers money while promoting the development of a major, sustainable industry that provides good jobs and a new source of rural prosperity. In addition, clean fuels and vehicles protect public health by reducing toxic air and climate change emissions.

(2) The legislature also finds that climate change is expected to have significant impacts in the Pacific Northwest region in the near and long-term future. These impacts include: Increased temperatures, declining snowpack, more frequent heavy rainfall and flooding, receding glaciers, rising sea levels, increased risks to public health due to insect and rodent-borne diseases, declining salmon populations, and increased drought and risk of forest fires. The legislature recognizes the need at this time to continue to gather and analyze information related to climate protection. This analysis will allow prudent steps to be taken to avoid, mitigate, or respond to climate impacts and protect our communities.

(3) Finally, the legislature finds that to reduce fossil fuel dependence, build our clean energy economy, and reduce climate impacts, the state should develop policies and incentives that help businesses, consumers, and farmers gain greater access to affordable clean fuels and vehicles and to produce clean fuels in the state. These policies and incentives should include: Incentives for replacement of the most polluting diesel engines, especially in school buses; transitional incentives for development of the most promising in-state clean fuels and fuel feedstocks, including biodiesel crops, ethanol from plant waste, and liquid natural gas from landfill or wastewater treatment gases; reduced fossil fuel consumption by state fleets; development of promising new technologies for displacing petroleum with electricity, such as "plug-in hybrids"; and impact analysis and emission accounting procedures that prepare Washington to respond and prosper as climate change impacts occur, and as policies and markets to reduce climate pollution are developed.

PART 1 INVESTING IN CLEAN AIR

NEW SECTION. **Sec. 101.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall implement a school bus replacement incentive program. As part of the program, the office shall fund up to ten percent of the cost of a new 2007 or later model year school bus that meets the 2007 federal motor vehicle emission control standards and is purchased by a school district by no later than June 30, 2009, provided that the new bus is replacing a 1994 or older school bus in the school district's fleet. Replacement of the oldest buses must be given highest priority.

(2) The office of the superintendent of public instruction shall ensure that buses being replaced through this program are surplus under RCW 28A.335.180. As part of the surplus process, school districts must provide written documentation to the office of the superintendent of public instruction demonstrating that buses being replaced are scrapped and not purchased for road use. The documentation must include bus make, model, year, vehicle identification number, engine make, engine serial number, and salvage yard receipts; and must demonstrate that the engine and body of the bus being replaced has been rendered unusable.

(3) The office of the superintendent of public instruction may adopt any rules necessary for the implementation of this act.

Sec. 102. RCW 70.94.017 and 2005 c 295 s 5 are each amended to read as follows:

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(1) Money deposited in the segregated subaccount of the air pollution control account under RCW 46.68.020(2) shall be distributed as follows:

(a) Eighty-five percent shall be distributed to air pollution control authorities created under this chapter. The money must be distributed in direct proportion with the amount of fees imposed under RCW 46.12.080, 46.12.170, and 46.12.181 that are collected within the boundaries of each authority. However, an amount in direct proportion with those fees collected in counties for which no air pollution control authority exists must be distributed to the department.

(b) The remaining fifteen percent shall be distributed to the department.

(2) Money distributed to air pollution control authorities and the department under subsection (1) of this section must be used as follows:

(a) Eighty-five percent of the money received by an air pollution control authority or the department is available on a priority basis to retrofit school buses with exhaust emission control devices or to provide funding for fueling infrastructure necessary to allow school bus fleets to use alternative, cleaner fuels. In addition, the director of ecology or the air pollution control officer may direct funding under this section for other publicly or privately owned diesel equipment if the director of ecology or the air pollution control officer finds that funding for other publicly or privately owned diesel equipment will provide public health benefits and further the purposes of this chapter.

(b) The remaining fifteen percent may be used by the air pollution control authority or department to reduce transportation-related air contaminant emissions and clean up air pollution, or reduce and monitor toxic air contaminants.

(3) Money in the air pollution control account may be spent by the department only after appropriation.

(4) This section expires July 1, 2020.

Sec. 103. RCW 53.08.040 and 1989 c 298 s 1 are each amended to read as follows:

(1) A district may improve its lands by dredging, filling, bulkheading, providing waterways or otherwise developing such lands for industrial and commercial purposes. A district may also acquire, construct, install, improve, and operate sewer and water utilities to serve its own property and other property owners under terms, conditions, and rates to be fixed and approved by the port commission. A district may also acquire, by purchase, construction, lease, or in any other manner, and may maintain and operate other facilities for the control or elimination of air, water, or other pollution, including, but not limited to, facilities for the treatment and/or disposal of industrial wastes, and may make such facilities available to others under terms, conditions and rates to be fixed and approved by the port commission. Such conditions and rates shall be sufficient to reimburse the port for all costs, including reasonable amortization of capital outlays caused by or incidental to providing such other pollution control facilities (~~PROVIDED, That~~). However, no part of such costs of providing any pollution control facility to others shall be paid out of any tax revenues of the port (~~AND PROVIDED FURTHER, That~~) and no port shall enter into an agreement or contract to provide sewer and/or water utilities or pollution control facilities if substantially similar utilities or facilities are available from another source (or sources) which is able and willing to provide such utilities or facilities on a reasonable and nondiscriminatory basis unless such other source (or sources) consents thereto.

(2) In the event that a port elects to make such other pollution control facilities available to others, it shall do so by lease, lease purchase agreement, or other agreement binding such user to pay for the use of said facilities for the full term of the revenue bonds issued by the port for the acquisition of said facilities, and said payments shall at least fully reimburse the port for all principal and interest paid by it on said bonds and for all operating or other costs, if any, incurred by the port in

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connection with said facilities(~~(-PROVIDED,))~~. However, ~~((That))~~ where there is more than one user of any such facilities, each user shall be responsible for its pro rata share of such costs and payment of principal and interest. Any port intending to provide pollution control facilities to others shall first survey the port district to ascertain the potential users of such facilities and the extent of their needs. The port shall conduct a public hearing upon the proposal and shall give each potential user an opportunity to participate in the use of such facilities upon equal terms and conditions.

(3) "Pollution control facility," as used in this section and RCW 53.08.041, does not include air quality improvement equipment that provides emission reductions for engines, vehicles, and vessels.

PART 2 PUBLIC SECTOR FUEL USE

Sec. 201. RCW 43.19.642 and 2006 c 338 s 10 are each amended to read as follows:

~~(1) (All state agencies are encouraged to use a fuel blend of twenty percent biodiesel and eighty percent petroleum diesel for use in diesel-powered vehicles and equipment.~~

~~—(2))~~ Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

~~((3))~~ (2) Effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

~~((4))~~ (3) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file ~~((quarterly))~~ biannual reports with the department of general administration documenting the use of the fuel and a description of how any problems encountered were resolved.

NEW SECTION. Sec. 202. A new section is added to chapter 43.19 RCW to read as follows:

(1) Effective June 1, 2015, all state agencies and local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of community, trade, and economic development pursuant to section 204 of this act, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

NEW SECTION. Sec. 203. A new section is added to chapter 43.19 RCW to read as follows:

(1) In order to allow the motor vehicle fuel needs of state and local government to be satisfied by Washington-produced biofuels as provided in this chapter, the department of general administration as well as local governments may contract in advance and execute contracts with public or private producers, suppliers, or other parties, for the purchase of appropriate biofuels, as that term is defined in RCW 15.110.010 (as recodified by this act), and biofuel blends. Contract provisions may address items including, but not limited to, fuel standards, price, and delivery date.

(2) The department of general administration may combine the needs of local government agencies, including ports, special districts, school districts, and municipal corporations, for the

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purposes of executing contracts for biofuels and to secure a sufficient and stable supply of alternative fuels.

NEW SECTION. Sec. 204. By June 1, 2010, the department shall adopt rules to define practicability and clarify how state agencies and local government subdivisions will be evaluated in determining whether they have met the goals set out in section 202(1) of this act. At a minimum, the rules must address:

(1) Criteria for determining how the goal in section 202(1) of this act will be met by June 1, 2015;

(2) Factors considered to determine compliance with the goal in section 202(1) of this act, including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

(3) A schedule for phased-in progress towards meeting the goal in section 202(1) of this act that may include different schedules for different fuel applications or different quantities of biofuels.

NEW SECTION. Sec. 205. The director of the department shall appoint a coordinator that is responsible for:

(1) Managing, directing, inventorying, and coordinating state efforts to promote, develop, and encourage a biofuels market in Washington;

(2) Developing, coordinating, and overseeing the implementation of a plan, or series of plans, for the production, transport, distribution, and delivery of biofuels produced predominantly from recycled products or Washington feedstocks;

(3) Working with the departments of transportation and general administration, and other applicable state and local governmental entities and the private sector, to ensure the development of biofuel fueling stations for use by state and local governmental motor vehicle fleets, and to provide greater availability of public biofuel fueling stations for use by state and local governmental motor vehicle fleets;

(4) Coordinating with the Western Washington University alternative automobile program for opportunities to support new Washington state technology for conversion of fossil fuel fleets to biofuel, hybrid, or alternative fuel propulsion;

(5) Coordinating with the University of Washington's college of forest management and the Olympic natural resources center for the identification of barriers to using the state's forest resources for fuel production, including the economic and transportation barriers of physically bringing forest biomass to the market;

(6) Coordinating with the department of agriculture and Washington State University for the identification of other barriers for future biofuels development and development of strategies for furthering the penetration of the Washington state fossil fuel market with Washington produced biofuels, particularly among public entities.

NEW SECTION. Sec. 206. A new section is added to chapter 43.01 RCW to read as follows:

(1) It is in the state's interest and to the benefit of the people of the state to encourage the use of electrical vehicles in order to reduce emissions and provide the public with cleaner air. This section expressly authorizes the purchase of power at state expense to recharge privately and publicly owned plug-in electrical vehicles at state office locations where the vehicles are used for state business, are commute vehicles, or where the vehicles are at the state location for the purpose of conducting business with the state.

(2) The director of the department of general administration may report to the governor and the appropriate committees of the legislature, as deemed necessary by the director, on the estimated amount of state-purchased electricity consumed by plug-in electrical vehicles if the director of general administration determines that the use has a significant cost to the state, and on the number of plug-in electric vehicles using

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state office locations. The report may be combined with the report under section 401 of this act.

NEW SECTION. Sec. 207. A new section is added to chapter 89.08 RCW to read as follows:

In addition to any other authority provided by law, conservation districts are authorized to enter into crop purchase contracts for a dedicated energy crop for the purposes of producing, selling, and distributing biodiesel produced from Washington state feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels.

NEW SECTION. Sec. 208. A new section is added to chapter 35.21 RCW to read as follows:

In addition to any other authority provided by law, public development authorities are authorized to enter into crop purchase contracts for a dedicated energy crop for the purposes of producing, selling, and distributing biodiesel produced from Washington state feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels.

NEW SECTION. Sec. 209. A new section is added to chapter 35.92 RCW to read as follows:

In addition to any other authority provided by law, municipal utilities are authorized to produce and distribute biodiesel, ethanol, and ethanol blend fuels, including entering into crop purchase contracts for a dedicated energy crop for the purpose of generating electricity or producing biodiesel produced from Washington feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels for use in internal operations of the electric utility and for sale or distribution.

NEW SECTION. Sec. 210. A new section is added to chapter 54.04 RCW to read as follows:

In addition to any other authority provided by law, public utility districts are authorized to produce and distribute biodiesel, ethanol, and ethanol blend fuels, including entering into crop purchase contracts for a dedicated energy crop for the purpose of generating electricity or producing biodiesel produced from Washington feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels for use in internal operations of the electric utility and for sale or distribution.

PART 3 ENERGY FREEDOM PROGRAM

Sec. 301. RCW 15.110.010 and 2006 c 171 s 2 are each amended to read as follows:

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

(1) "Applicant" means any political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations. "Applicant" may also include federally recognized tribes and state institutions of higher education with appropriate research capabilities.

(2) "Alternative fuel" means all products or energy sources used to propel motor vehicles, other than conventional gasoline, diesel, or reformulated gasoline. "Alternative fuel" includes, but is not limited to, cellulose, liquefied petroleum gas, liquefied natural gas, compressed natural gas, biofuels, biodiesel fuel, E85 motor fuel, fuels containing seventy percent or more by volume of alcohol fuel, fuels that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or electricity, excluding onboard electric generation.

(3) "Assistance" includes loans, leases, product purchases, or other forms of financial or technical assistance.

~~((3))~~ (4) "Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

(5) "Biogas" includes waste gases derived from landfills and wastewater treatment plants and dairy and farm wastes.

(6) "Cellulose" means lignocellulosic, hemicellulosic, or other cellulosic matter that is available on a renewable or

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recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

(7) "Coordinator" means the person appointed by the director of the department of community, trade, and economic development.

(8) "Department" means the department of ~~((agriculture))~~ community, trade, and economic development.

~~((4))~~ (9) "Director" means the director of the department of ~~((agriculture))~~ community, trade, and economic development.

~~((5))~~ (10) "Green highway zone" means an area in the state designated by the department that is within reasonable proximity of state route number 5, state route number 90, and state route number 82.

(11) "Peer review committee" means a board, appointed by the director, that includes bioenergy specialists, energy conservation specialists, scientists, and individuals with specific recognized expertise.

~~((6))~~ (12) "Project" means the construction of facilities, including the purchase of equipment, to convert farm products or wastes into electricity or gaseous or liquid fuels or other coproducts associated with such conversion. These specifically include fixed or mobile facilities to generate electricity or methane from the anaerobic digestion of organic matter, and fixed or mobile facilities for extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities associated with such conversion for the distribution and storage of such feedstocks and fuels.

~~((7))~~ (13) "Refueling project" means the construction of new alternative fuel refueling facilities, as well as upgrades and expansion of existing refueling facilities, that will enable these facilities to offer alternative fuels to the public.

(14) "Research and development project" means research and development, by an institution of higher education as defined in subsection (1) of this section, relating to:

(a) Bioenergy sources including but not limited to biomass and associated gases; or

(b) The development of markets for bioenergy coproducts.

Sec. 302. RCW 15.110.020 and 2006 c 171 s 3 are each amended to read as follows:

(1) The energy freedom program is established within the department. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) When reviewing applications submitted under this program, the director shall consult with those agencies and other public entities having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, ~~((the department of community, trade, and economic development,))~~ the department of natural resources, the department of agriculture, the department of general administration, local clean air authorities, and the Washington state conservation commission.

(3) Except as provided in subsection (4) of this section, the director, in cooperation with the department of ~~((community, trade, and economic development))~~ agriculture, may approve an application only if the director finds:

(a) The project will convert farm products ~~((or))~~ wastes, cellulose, or biogas directly into electricity or ~~((into gaseous or liquid fuels))~~ biofuel or other coproducts associated with such conversion;

(b) The project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The facility will produce long-term economic benefits to the state, a region of the state, or a particular community in the state;

(d) The project does not require continuing state support;

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(e) The assistance will result in new jobs, job retention, or higher incomes for citizens of the state;

(f) The state is provided an option under the assistance agreement to purchase a portion of the fuel or feedstock to be produced by the project, exercisable by the department of general administration;

(g) The project will increase energy independence or diversity for the state;

(h) The project will use feedstocks produced in the state, if feasible, except this criterion does not apply to the construction of facilities used to distribute and store fuels that are produced from farm products or wastes;

(i) Any product produced by the project will be suitable for its intended use, will meet accepted national or state standards, and will be stored and distributed in a safe and environmentally sound manner;

(j) The application provides for adequate reporting or disclosure of financial and employment data to the director, and permits the director to require an annual or other periodic audit of the project books; and

(k) For research and development projects, the application has been independently reviewed by a peer review committee as defined in RCW 15.110.010 (as recodified by this act) and the findings delivered to the director.

(4) When reviewing an application for a refueling project, the coordinator may award a grant or a loan to an applicant if the director finds:

(a) The project will offer alternative fuels to the motoring public;

(b) The project does not require continued state support;

(c) The project is located within a green highway zone as defined in RCW 15.110.010 (as recodified by this act);

(d) The project will contribute towards an efficient and adequately spaced alternative fuel refueling network along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

(e) The project will result in increased access to alternative fueling infrastructure for the motoring public along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140.

(5)(a) The director may approve ~~(an)~~ a project application for assistance under subsection (3) of this section up to five million dollars. In no circumstances shall this assistance constitute more than fifty percent of the total project cost.

~~((5))~~ (b) The director may approve a refueling project application for a grant or a loan under subsection (4) of this section up to fifty thousand dollars. In no circumstances shall a grant or a loan award constitute more than fifty percent of the total project cost.

(6) The director shall enter into agreements with approved applicants to fix the terms and rates of the assistance to minimize the costs to the applicants, and to encourage establishment of a viable bioenergy or biofuel industry. The agreement shall include provisions to protect the state's investment, including a requirement that a successful applicant enter into contracts with any partners that may be involved in the use of any assistance provided under this program, including services, facilities, infrastructure, or equipment. Contracts with any partners shall become part of the application record.

~~((6))~~ (7) The director may defer any payments for up to twenty-four months or until the project starts to receive revenue from operations, whichever is sooner.

Sec. 303. RCW 15.110.040 and 2006 c 171 s 5 are each amended to read as follows:

(1) If the total requested dollar amount of assistance awarded for projects under RCW 15.110.020(3) (as recodified by this act) exceeds the amount available in the energy freedom account created in RCW 15.110.050 (as recodified by this act), the applications must be prioritized based upon the following criteria:

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~~((+))~~ (a) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

~~((2))~~ (b) The extent to which the project will reduce air and water pollution either directly or indirectly;

~~((3))~~ (c) The extent to which the project will establish a viable bioenergy or biofuel production capacity in Washington;

~~((+))~~ (d) The benefits to Washington's agricultural producers; ~~(and~~

~~(5))~~ (e) The benefits to the health of Washington's forests;

(f) The beneficial uses of biogas; and

(g) The number and quality of jobs and economic benefits created by the project.

(2) This section does not apply to grants or loans awarded for refueling projects under RCW 15.110.020(4) (as recodified by this act).

NEW SECTION. Sec. 304. If the total requested dollar amount of funds for refueling projects under RCW 15.110.020(4) (as recodified by this act) exceeds the amount available for refueling projects in the energy freedom account created in RCW 15.110.050 (as recodified by this act), the applications must be prioritized based upon the following criteria:

(1) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

(2) The extent to which the project will reduce air and water pollution either directly or indirectly;

(3) The extent to which the project will establish a viable bioenergy production capacity in Washington;

(4) The extent to which the project will make biofuels more accessible to the motoring public;

(5) The benefits to Washington's agricultural producers; and

(6) The number and quality of jobs and economic benefits created by the project.

Sec. 305. RCW 15.110.050 and 2006 c 371 s 223 are each amended to read as follows:

(1) The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for assistance for projects consistent with this chapter or otherwise authorized by the legislature. ~~(Administrative costs of the department may not exceed three percent of the total funds available for this program.)~~

(2) The green energy incentive account is created in the state treasury as a subaccount of the energy freedom account. All receipts from appropriations made to the green energy incentive account shall be deposited into the account, and may be spent only after appropriation. Expenditures from the account may be used only for:

(a) Refueling projects awarded under this chapter;

(b) Pilot projects for plug-in hybrids, including grants provided for the electrification program set forth in section 408 of this act; and

(c) Demonstration projects developed with state universities as defined in RCW 28B.10.016 and local governments that result in the design and building of a hydrogen vehicle fueling station.

(3) Any state agency receiving funding from the energy freedom account is prohibited from retaining greater than three percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce unless this provision is waived in writing by the director.

(4) Any university, institute, or other entity that is not a state agency receiving funding from the energy freedom account is prohibited from retaining greater than fifteen percent of any

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funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce.

(5) Subsections (2) through (4) of this section do not apply to assistance awarded for projects under RCW 15.110.020(3) (as recodified by this act).

Sec. 306. RCW 15.110.060 and 2006 c 171 s 7 are each amended to read as follows:

The director shall report to the legislature and governor on the status of the energy freedom program created under this chapter, on or before December 1, ~~((2006))~~ 2007, and annually thereafter. This report must include information on the projects that have been funded, the status of these projects, and their environmental, energy savings, and job creation benefits as well as an assessment of the availability of alternative fuels in the state and best estimates to indicate, by percentage, the types of biofuel feedstocks and sources that contribute to biofuels used in the state and the general geographic origination of such feedstocks and sources. Based on analysis of this information, the report must also recommend appropriate mechanisms, including but not limited to changes in state contracting practices, tax incentives, or renewable fuel standard provisions, that will help Washington farmers and businesses compete in an economically viable manner and will encourage environmentally sustainable development of an in-state biofuels industry based on feedstocks grown and produced in Washington.

NEW SECTION. Sec. 307. (1) Energy freedom program projects funded pursuant to RCW 15.110.050 (as recodified by this act) or by the legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006 for which the department of agriculture has signed loan agreements and disbursed funds prior to June 30, 2007, shall continue to be serviced by the department of agriculture.

(2) Energy freedom program projects funded pursuant to RCW 15.110.050 (as recodified by this act) or by the legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006 for which moneys have been appropriated but loan agreements or disbursements have not been completed must be transferred to the department for project management on July 1, 2007, subject to the ongoing requirements of the energy freedom program.

PART 4 PLANNING FOR THE FUTURE

NEW SECTION. Sec. 401. (1) The department of ecology and the department of community, trade, and economic development, in implementing executive order number 07-02 shall include an analysis of, and potential for, vehicle electrification. That analysis may include:

(a) Use by the state of plug-in hybrid vehicles and developing plug-in availability at state locations;

(b) Incentives to encourage the use of plug-in truck auxiliary power units and truck stop electrification;

(c) Use of plug-in shore power for cargo and cruise ship terminals, shipside technology, and use of electric power alternatives for port-related operations and equipment such as switching locomotives, vessels and harborcraft, and cargo-handling equipment;

(d) Potential uses for and availability of plug-in hybrid school buses;

(e) Potential environmental and electrical grid impacts on electrical power consumption of the conversion of a meaningful portion of the state's private and public fleet to plug-in electrical power;

(f) Tax and fee incentives to encourage individual and fleet purchases of plug-in hybrid vehicles;

(g) State laws, rules, tariffs, and policies that impact transportation electrification and plug-in adoption, including pricing with incentives for off-peak charging;

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(h) Measures to encourage the use of plug-in vehicles by public fleets, and resulting cost savings, and whether state and local fleets should be required to purchase plug-in hybrid vehicles if it is determined that plug-in hybrid vehicles are commercially available at a reasonably comparable life-cycle cost;

(i) Explore the potential for the use of electrification of fixed transit routes for magnetic levitation propulsion systems;

(j) Actions by the state to help industries located in the state participate in developing and manufacturing plug-in vehicles and vehicle-to-grid technologies;

(k) Additional ways the state can promote transportation electrification in the private and public sectors, including cars and light-duty vehicles, and truck stop and port electrification; and

(l) Potential partners for vehicle-to-grid pilot projects that test the use of parked plug-in vehicles for power grid energy storage and support.

(2) The departments of ecology and community, trade, and economic development shall provide the appropriate committees of the legislature an analysis or report by March 1, 2008. The report may be included within the report produced for executive order number 07-02.

NEW SECTION. Sec. 402. A new section is added to chapter 28B.30 RCW to read as follows:

(1) Washington State University is directed to analyze the availability of biofuels in the state and to make best estimates to indicate, by percentage, the types and geographic origins of biofuel feedstock sources that contribute to biofuel production and use in the state, and to recommend models for possible implementation by the legislature or the executive office for at least the following potential biofuels incentive programs:

(a) Market incentives to encourage in-state production of brassica-based biodiesel, and cellulosic ethanol, including such market methods as direct grants, production tax credits, contracting preferences, and the issuance by the state of advance guaranteed purchase contracts;

(b) Possible preferred research programs, grants, or other forms of assistance for accelerating the development of in-state production of cellulosic ethanol and in-state biodiesel crops and their coproducts; and

(c) The following should be considered when evaluating potential biofuel incentive programs:

(i) Assisting Washington farmers and businesses in the development of economically viable, environmentally sustainable in-state biofuel and biofuel feedstock production;

(ii) Leveraging and encouraging private investment in biofuel production and distribution and biofuel feedstock production; and

(iii) Assisting in the development of biofuel feedstocks and production techniques that deliver the greatest net reductions in petroleum dependence and carbon emissions.

(2) An interim report on the work required under this section must be provided to the legislature and governor by December 1, 2007. A final report must be provided to the legislature and governor by December 1, 2008. Washington State University shall work closely with the department of community, trade, and economic development on these reports. The reports may be produced in conjunction with the reporting requirements of RCW 15.110.060 (as recodified by this act).

NEW SECTION. Sec. 403. (1) The department of community, trade, and economic development and the department of ecology shall develop a framework for the state of Washington to participate in emerging regional, national, and to the extent possible, global markets to mitigate climate change, on a multisector basis. This framework must include, but not be limited to, credible, verifiable, replicable inventory and accounting methodologies for each sector involved, along with the completion of the stakeholder process identified in executive order number 07-02 creating the Washington state climate change challenge.

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(2) The department of community, trade, and economic development and the department of ecology shall include the forestry sector and work closely with the department of natural resources on those recommendations.

(3) The department must provide a report to the legislature by December 1, 2008. The report may be included within the report produced for executive order number 07-02.

NEW SECTION. Sec. 404. (1) In preparing for the impacts of climate change consistent with executive order number 07-02, the departments of community, trade, and economic development and ecology shall work with the climate impacts group at the University of Washington to produce:

(a) A comprehensive state climate change assessment that includes the impacts of global warming, including impacts to public health, agriculture, the coast line, forestry, infrastructure, and water supply and management;

(b) An analysis of the potential human health impacts of climate change on the state of Washington.

(2) To ensure the appropriateness of these assessments for public agency planning and management, the departments and the climate impacts group shall consult with state and local public health resource planning and management agencies.

(3) If adequate funding is not made available for the completion of all elements required under this section, the departments and the climate impacts group shall list and prioritize which research projects have the greatest cost/benefit ratio in terms of providing information important for planning decisions.

(4) The work under this section that is completed by December 1, 2007, must be included in the final report of the Washington climate change challenge. Any further reports must be completed by December 15, 2008.

Sec. 405. RCW 47.17.020 and 1970 ex.s. c 51 s 5 are each amended to read as follows:

A state highway to be known as state route number 5, and designated as a Washington green highway, is established as follows:

Beginning at the Washington-Oregon boundary line on the interstate bridge over the Columbia river at Vancouver, thence northerly by way of Kelso, Chehalis, Centralia, Olympia, Tacoma, Seattle, Everett and Mt. Vernon, thence northwesterly to the east of Lake Samish, thence northeasterly and northerly by way of Bellingham to the international boundary line in the vicinity of Blaine in Whatcom county.

Sec. 406. RCW 47.17.135 and 1979 ex.s. c 33 s 3 are each amended to read as follows:

A state highway to be known as state route number 82, and designated as a Washington green highway, is established as follows:

Beginning at a junction with state route number 90 in the vicinity of Ellensburg, thence southerly and easterly by way of Yakima, Union Gap, Sunnyside, Prosser, Kiona, and Goose Gap west of Richland, thence southeasterly near Kennewick and southwesterly by way of the vicinity of Plymouth to a crossing of the Columbia river at the Washington-Oregon boundary line.

Sec. 407. RCW 47.17.140 and 1991 c 56 s 2 are each amended to read as follows:

A state highway to be known as state route number 90, and designated as the American Veterans Memorial Highway as well as a Washington green highway, is established as follows:

Beginning at a junction with state route number 5, thence, via the west approach to the Lake Washington bridge in Seattle, in an easterly direction by way of Mercer Island, North Bend, Snoqualmie pass, Ellensburg, Vantage, Moses Lake, Ritzville, Sprague and Spokane to the Washington-Idaho boundary line.

NEW SECTION. Sec. 408. (1) The vehicle electrification demonstration grant program is established within the department of community, trade, and economic development. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

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(2) The director may approve an application for a vehicle electrification demonstration project only if the director finds:

(a) The applicant is a state agency, public school district, public utility district, or a political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations or a state institution of higher education;

(b) The project partially funds the purchase of or conversion of existing vehicles to plug-in hybrid electric vehicles or battery electric vehicles for use in the applicant's fleet or operations;

(c) The project partners with an electric utility and demonstrates technologies to allow controlled vehicle charging, including the use of power electronics or wireless technologies, to regulate time-of-day and duration of charging;

(d) The project provides matching resources; and

(e) The project provides evaluation of fuel savings, greenhouse gas reductions, battery capabilities, energy management system, charge controlling technologies, and other relevant information determined on the advice of the vehicle electrification work group.

(3) The director may approve an application for a vehicle electrification demonstration project if the project, in addition to meeting the requirements of subsection (2) of this section, also demonstrates charging using on-site renewable resources or vehicle-to-grid capabilities that enable the vehicle to discharge electricity into the grid.

PART 5 MISCELLANEOUS

NEW SECTION. Sec. 501. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 502. The following sections are codified and recodified as a new chapter in Title 43 RCW entitled "Energy Freedom Program":

RCW 15.110.005;

RCW 15.110.010;

RCW 15.110.020;

RCW 15.110.030;

RCW 15.110.040;

RCW 15.110.050;

RCW 15.110.060;

RCW 15.110.900;

RCW 15.110.901;

Section 204 of this act;

Section 205 of this act;

Section 304 of this act;

Section 307 of this act; and

Section 403 of this act.

NEW SECTION. Sec. 503. Sections 205 and 301 through 307 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."

MOTION

Senator Schoesler moved that the following amendment by Senators Schoesler and Rasmussen to the striking amendment be adopted.

On page 6 of the amendment, after line 23, insert the following:

"(3) To assist in the development of biodiesel feedstocks that provide favorable characteristics, including better fuel quality, lower net carbon dioxide emissions, and preferable cold-weather gel points, the department of general administration and local governments shall give contracting preference to biodiesel derived from brassica feedstocks. The department and local governments may only execute contracts for the purchase of biodiesel containing biodiesel derived from palm-oil feedstocks if the department can demonstrate that there

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was not sufficient availability of biodiesel derived from brassica feedstocks at the time of the contract and the contracted biodiesel will not contain biodiesel derived from palm-oil feedstocks harvested from croplands made available by the eradication of rainforest."

Renumber the sections consecutively and correct any internal references accordingly.

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

Senator Poulsen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Schoesler and Rasmussen on page 6, after line 23 to the striking amendment to Engrossed Second Substitute House Bill No. 1303.

The motion by Senator Schoesler failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

Senator Holmquist moved that the following amendment by Senator Holmquist to the striking amendment be adopted.

On page 8, after line 14, insert the following new subsection:

"(3) This section shall lapse if the Attorney General determines, in writing, that allowing public or private electrical vehicles to be recharged at state offices and at state expense violates Article 8, Section 7, or any other provision of, the state constitution."

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

Senator Poulsen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist on page 8, after line 14 to the striking amendment to Engrossed Second Substitute House Bill No. 1303.

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

MOTION

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

On page 17, line 26 of the amendment, after "electrification;" strike "and"

On page 17, line 29 of the amendment, after "support" insert "; and"

(m) The use of hybrid vehicles must include an economic analysis of the total life-cycle cost to the state over the vehicle's estimated useful life, including energy inputs into the production of the vehicle, fuel usage, and all related costs of selection, acquisition, operation, maintenance, and disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of the vehicle's estimated useful life."

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

MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 17, line 26 to the striking amendment to Engrossed Second Substitute House Bill No. 1303.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Poulsen to Engrossed Second Substitute House Bill No. 1303.

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

MOTION

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

On page 1, line 3 of the title, after "emissions;" strike the remainder of the title and insert "amending RCW 70.94.017, 53.08.040, 43.19.642, 15.110.010, 15.110.020, 15.110.040, 15.110.050, 15.110.060, 47.17.020, 47.17.135, and 47.17.140; adding a new section to chapter 28A.300 RCW; adding new sections to chapter 43.19 RCW; adding a new section to chapter 43.01 RCW; adding a new section to chapter 89.08 RCW; adding a new section to chapter 35.21 RCW; adding new sections to chapter 35.92 RCW; adding a new section to chapter 54.04 RCW; adding a new section to chapter 28B.30 RCW; adding a new chapter to Title 43 RCW; creating new sections; recodifying RCW 15.110.005, 15.110.010, 15.110.020, 15.110.030, 15.110.040, 15.110.050, 15.110.060, 15.110.900, and 15.110.901; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Poulsen, the rules were suspended, Engrossed Second Substitute House Bill No. 1303 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Poulsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1303 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1303 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Voting nay: Senators Delvin, Honeyford, Morton and Schoesler - 4

Excused: Senator Hewitt - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1303 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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SECOND READING

SUBSTITUTE HOUSE BILL NO. 2129, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives VanDeWege, Hudgins, Morris, Eddy, Crouse, Hankins, McCoy, Takko, Hurst, McCune and Chase)

Regarding geothermal core holes.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Water, Energy & Telecommunications be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 78.60.070 and 1974 ex.s. c 43 s 7 are each amended to read as follows:

(1) Any person proposing to drill a well or redrill an abandoned well for geothermal resources shall file with the department a written application for a permit to commence such drilling or redrilling on a form prescribed by the department accompanied by a permit fee of two hundred dollars. The department shall forward a duplicate copy to the department of ecology within ten days of filing.

(2) Upon receipt of a proper application relating to drilling or redrilling the department shall set a date, time, and place for a public hearing on the application, which hearing shall be in the county in which the drilling or redrilling is proposed to be made, and shall instruct the applicant to publish notices of such application and hearing by such means and within such time as the department shall prescribe. The department shall require that the notice so prescribed shall be published twice in a newspaper of general circulation within the county in which the drilling or redrilling is proposed to be made and in such other appropriate information media as the department may direct.

(3) Any person proposing to drill a core hole for the purpose of gathering geothermal data, including but not restricted to heat flow, temperature gradients, and rock conductivity, shall be required to obtain a single permit for each ~~((geothermal area))~~ core hole according to subsection (1) of this section, ~~((except that no))~~ including a permit fee ((shall be required)) for each core hole, but no notice need be published, and no hearing need be held. Such core holes that penetrate more than seven hundred and fifty feet into bedrock shall be deemed geothermal test wells and subject to the payment of a permit fee and to the requirement in subsection (2) of this section for public notices and hearing. In the event geothermal energy is discovered in a core hole, the hole shall be deemed a geothermal well and subject to the permit fee, notices, and hearing. Such core holes as described by this subsection are subject to all other provisions of this chapter, including a bond or other security as specified in RCW ~~((79.76.130))~~ 78.60.130.

(4) All moneys paid to the department under this section shall be deposited with the state treasurer for credit to the general fund.

Sec. 2. RCW 78.60.100 and 1974 ex.s. c 43 s 10 are each amended to read as follows:

Any well or core hole drilled under authority of this chapter from which:

(1) It is not technologically practical to derive the energy to produce electricity commercially, or the owner or operator has no intention of deriving energy to produce electricity commercially, and

(2) Usable minerals cannot be derived, or the owner or operator has no intention of deriving usable minerals, shall be plugged and abandoned as provided in this chapter or, upon the

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owner's or operator's written application to the department of natural resources and with the concurrence and approval of the department of ecology, jurisdiction over the well may be transferred to the department of ecology and, in such case, the well shall no longer be subject to the provisions of this chapter but shall be subject to any applicable laws and ~~((regulations))~~ rules relating to wells drilled for appropriation and use of ground waters. If an application is made to transfer jurisdiction, a copy of all logs, records, histories, and descriptions shall be provided to the department of ecology by the applicant.

Sec. 3. RCW 78.60.130 and 1974 ex.s. c 43 s 13 are each amended to read as follows:

Every operator who engages in the drilling, redrilling, or deepening of any well or core hole shall file with the department a reasonable bond or bonds with good and sufficient surety, or the equivalent thereof, acceptable to the department, conditioned on compliance with the provisions of this chapter and all rules and ~~((regulations and))~~ permit conditions adopted pursuant to this chapter. This performance bond shall be executed in favor of and approved by the department.

In lieu of a bond the operator may file with the department a cash deposit, negotiable securities acceptable to the department, or an assignment of a savings account in a Washington bank on an assignment form prescribed by the department. The department, in its discretion, may accept a single surety or security arrangement covering more than one well or core hole.

Sec. 4. RCW 78.60.200 and 1974 ex.s. c 43 s 20 are each amended to read as follows:

(1) The owner or operator of any well or core hole shall keep or cause to be kept careful and accurate logs, including but not restricted to heat flow, temperature gradients, and rock conductivity logs, records, descriptions, and histories of the drilling, redrilling, or deepening of the well.

(2) All logs, including but not restricted to heat flow, temperature gradients, and rock conductivity logs, records, histories, and descriptions referred to in subsection (1) of this section shall be kept in the local office of the owner or operator, and together with other reports of the owner or operator shall be subject during business hours to inspection by the department. Each owner or operator, upon written request from the department, shall file with the department ~~((a))~~ one paper and one electronic copy of the logs, including but not restricted to heat flow, temperature gradients, and rock conductivity logs, records, histories, descriptions, or other records or portions thereof pertaining to the geothermal drilling or operation underway or suspended.

Sec. 5. RCW 78.60.210 and 1974 ex.s. c 43 s 21 are each amended to read as follows:

Upon completion or plugging and abandonment of any well or core hole or upon the suspension of operations conducted with respect to any well or core hole for a period of at least six months, one paper and one electronic copy of ((the)) logs, including but not restricted to heat flow, temperature gradients, and rock conductivity logs, core ((record)), electric log, history, and all other logs and surveys that may have been run on the well, shall be filed with the department within thirty days after such completion, plugging and abandonment, or six months' suspension.

Sec. 6. RCW 78.60.230 and 1974 ex.s. c 43 s 23 are each amended to read as follows:

(1) The records of any owner or operator, when filed with the department as provided in this chapter, shall be confidential and shall be open to inspection only to personnel of the department for the purpose of carrying out the provisions of this chapter and to those authorized in writing by such owner or operator, until the expiration of a twenty-four month confidential period to begin at the date of commencement of production or of abandonment of the well or core hole. After expiration of the twenty-four month confidential period, the department shall ensure all logs and surveys that may have been

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run on the well or core hole are preserved in an electronic data system and made available to the public.

(2) Such records shall in no case, except as provided in this chapter, be available as evidence in court proceedings. No officer, employee, or member of the department shall be allowed to give testimony as to the contents of such records, except as provided in this chapter for the review of a decision of the department or in any proceeding initiated for the enforcement of an order of the department, for the enforcement of a lien created by the enforcement of this chapter, or for use as evidence in criminal proceedings arising out of such records or the statements upon which they are based.

Sec. 7. RCW 43.30.490 and 2003 c 70 s 2 are each amended to read as follows:

(1) The department may enter into a written cost-reimbursement agreement with a permit or lease applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, ~~((and))~~ permit or lease processing, and monitoring for permit compliance. The cost-reimbursement agreement shall identify the specific tasks, costs, and schedule for work to be conducted under the agreement. ~~((An applicant for a lease issued under chapter 79.90 RCW may not enter into a cost-reimbursement agreement under this section for projects conducted under the lease.))~~

(2) The written cost-reimbursement agreement shall be negotiated with the permit or lease applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant or proponent shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit or lease. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits or leases, and shall contract with consultants to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments. Use of cost-reimbursement agreements shall not reduce the current level of staff available to work on permits or leases not covered by cost-reimbursement agreements. The department may not use any funds under a cost-reimbursement agreement to replace or supplant existing funding. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement.

~~((3) The department may not enter into any new cost-reimbursement agreements on or after July 1, 2007. The department may continue to administer any cost-reimbursement agreement that was entered into before July 1, 2007, until the project is completed.))"~~

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Water, Energy & Telecommunications to Substitute House Bill No. 2129.

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

MOTION

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

On page 1, line 1 of the title, after "resources;" strike the remainder of the title and insert "and amending RCW 78.60.070, 78.60.100, 78.60.130, 78.60.200, 78.60.210, 78.60.230, and 43.30.490."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 2129 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Kline and Pridemore were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2129 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2129 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senators Holmquist and Honeyford - 2

Excused: Senator Kline - 1

SUBSTITUTE HOUSE BILL NO. 2129 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2007, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Eddy and Crouse)

Defining allowable fuel blends. Revised for 1st Substitute: Regarding allowable fuel blends.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 2007 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

MOTION

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On motion of Senator Delvin, Senator McCaslin was excused.

MOTION

On motion of Senator Marr, Senator Pridemore was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2007.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2007 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Kline, McCaslin and Pridemore - 3

SUBSTITUTE HOUSE BILL NO. 2007, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9068, Carol Smith-Merkulov, as a member of the Horse Racing Commission, be confirmed.

Senator Rockefeller spoke in favor of the motion.

APPOINTMENT OF CAROL SMITH-MERKULOV

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9068, Carol Smith-Merkulov as a member of the Horse Racing Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9068, Carol Smith-Merkulov as a member of the Horse Racing Commission and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Kline, McCaslin and Pridemore - 3

Gubernatorial Appointment No. 9068, Carol Smith-Merkulov, having received the constitutional majority was declared confirmed as a member of the Horse Racing Commission.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1256, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Dickerson, Kagi, Hunter, O'Brien and Ericks)

Preventing serious injury and strangulation from window blind cords or other significant safety hazards in child care settings.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.215 RCW to read as follows:

(1) Minimum licensing requirements under this chapter shall include a prohibition on the use of window blinds or other window coverings with pull cords or inner cords capable of forming a loop and posing a risk of strangulation to young children. Window blinds and other coverings that have been manufactured or properly retrofitted in a manner that eliminates the formation of loops posing a risk of strangulation are not prohibited under this section.

(2) When developing and periodically reviewing minimum licensing requirements related to safety of the premises, the director shall consult and give serious consideration to publications of the United States consumer product safety commission.

(3) The department may provide information as available regarding reduced cost or no-cost options for retrofitting or replacing unsafe window blinds and window coverings.

NEW SECTION. Sec. 2. This act may be known and cited as the Jaclyn Frank act."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 1256.

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

MOTION

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

On page 1, line 3 of the title, after "settings;" strike the remainder of the title and insert "adding a new section to chapter 43.215 RCW; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1256 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

Senator Stevens spoke against passage of the bill.

MOTION

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

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The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1256 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1256 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 42

Voting nay: Senators Holmquist, Morton and Stevens - 3

Excused: Senators Brown, Kline, Pridemore and Regala - 4

SUBSTITUTE HOUSE BILL NO. 1256 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 2:30 p.m. on motion of Senator Eide, the Senate was at ease.

The Senate was called to order at 3:26 p.m. by President Owen.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9098, Jeffrey Colliton, as a member of the Horse Racing Commission, be confirmed.

Senators Rockefeller and Marr spoke in favor of the motion.

APPOINTMENT OF JEFFREY COLLITON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9098, Jeffrey Colliton as a member of the Horse Racing Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9098, Jeffrey Colliton as a member of the Horse Racing Commission and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senator Oemig - 1

Excused: Senators Brown and Pridemore - 2

Gubernatorial Appointment No. 9098, Jeffrey Colliton, having received the constitutional majority was declared confirmed as a member of the Horse Racing Commission.

SECOND READING

HOUSE BILL NO. 1820, by Representatives Dickerson, Hankins, Lovick, B. Sullivan, Simpson, Hasegawa and Moeller

Reducing air pollution through the licensing and use of medium-speed electric vehicles.

The measure was read the second time.

MOTION

On motion of Senator Murray, the rules were suspended, House Bill No. 1820 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Brown and Oemig were excused.

MOTION

On motion of Senator Marr, Senator Poulsen was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1820.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1820 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Oemig - 2

HOUSE BILL NO. 1820, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE JOINT MEMORIAL NO. 4017, by Representatives Kessler and VanDeWege

Naming portions of Highways 112 and 113 the Korean War Veteran's Blue Star Memorial Highway.

The measure was read the second time.

MOTION

On motion of Senator Shin, the rules were suspended, House Joint Memorial No. 4017 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senators Shin, Hargrove, Jacobsen, Prentice and Kastama spoke in favor of passage of the bill.

MOTION

On motion of Senator Swecker, Senator Brandland was excused.

The President declared the question before the Senate to be the final passage of House Joint Memorial No. 4017.

ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4017 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE JOINT MEMORIAL NO. 4017, having received the constitutional majority, was declared passed.

SECOND READING

SENATE BILL NO. 5799, by Senators Haugen, Prentice, Swecker, Berkey, Marr, Kilmer, Clements, Sheldon, Schoesler and Shin

Reducing business and occupation tax rates for certain fuel distributors.

MOTION

On motion of Senator Haugen, Second Substitute Senate Bill No. 5799 was substituted for Senate Bill No. 5799 and the second substitute bill was placed on the second reading and read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.04.260 and 2006 c 354 s 4 and 2006 c 300 s 1 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent;

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(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d) Beginning July 1, 2012, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds

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derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the

gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (11), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (11) must report as required under RCW 82.32.545.

(e) This subsection (11) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

(12)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business shall, in the case of extractors, be equal to the value of products, including byproducts, extracted, or in the case of extractors for hire, be equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire:

(i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business shall, in the case of manufacturers, be equal to the value of products, including byproducts, manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business shall be equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(d) For purposes of this subsection, the following definitions apply:

(i) "Timber products" means logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber; pulp; and recycled paper products.

(ii) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; and wood windows.

(13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(14)(a) Except as provided in (b) of this subsection, until July 1, 2010, upon every person engaging within this state in the business of making wholesale sales of motor vehicle fuel or special fuel as a motor vehicle fuel distributor or a special fuel distributor; as to such persons the amount of tax with respect to the business shall be equal to the gross proceeds of sales of the

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motor vehicle fuel or special fuel multiplied by the rate of 0.2904 percent.

(b) This subsection does not apply to sales of motor vehicle fuel or special fuel when the seller:

(i) Removed the motor vehicle fuel or special fuel from a terminal or refinery rack and is a motor vehicle or special fuel supplier;

(ii) Imported the motor vehicle fuel or special fuel outside the bulk transfer terminal system;

(iii) Exported the motor vehicle fuel or special fuel; or

(iv) Blended the motor vehicle fuel or special fuel outside the bulk transfer terminal system.

(c) Nothing in this subsection (14) should be construed to exempt those sales of motor vehicle fuel or special fuel described in (b)(i) through (iv) of this subsection (14) from the tax imposed under this chapter.

(d) Except for the definition of "person," the definitions in chapters 82.36 and 82.38 RCW apply to this subsection (14).

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007."

MOTION

Senator Swecker moved that the following amendment by Senator Swecker to the striking amendment be adopted.

On page 6, line , at the beginning of line 30 strike "2010" and insert "2012"

Re-number the sections consecutively and correct any internal references accordingly.

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

Senator Haugen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 6, line 30 to the striking amendment to Second Substitute Senate Bill No. 5799.

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

MOTION

Senator Swecker moved that the following amendment by Senator Swecker to the striking amendment be adopted.

On page 6, line 35, after "the rate of", strike "0.2904" and insert "0.138"

Re-number the sections consecutively and correct any internal references accordingly.

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

Senator Haugen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 6, line 35 to the striking amendment to Second Substitute Senate Bill No. 5799.

The motion by Senator Swecker failed and the amendment to the striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Haugen and Prentice to Second Substitute Senate Bill No. 5799.

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

MOTION

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

On page 1, line 2 of the title, after "distributors;" strike the remainder of the title and insert "reenacting and amending RCW 82.04.260; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5799 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5799.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5799 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5799, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1505, by Representatives Clibborn, Curtis, Seaquist, Hinkle, Morrell, Linville, Armstrong, Rodne, B. Sullivan, Ericksen, Ericks, Roberts, Darneille, Moeller and McCune

Regarding physician assistants determining disability for special parking privileges.

The measure was read the second time.

MOTION

On motion of Senator Franklin, the rules were suspended, House Bill No. 1505 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 1505.

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ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1505 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Poulsen - 1

HOUSE BILL NO. 1505, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1445, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Kessler, Rodne, Chandler, Hunt, Uptegrove and Miloscia)

Making adjustments to the recodification of the public records act.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 1445 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1445.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1445 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Poulsen - 1

SUBSTITUTE HOUSE BILL NO. 1445, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2236, by Representatives Goodman and Lantz

Disposing of certain assets.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2236 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2236.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2236 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Poulsen - 1

HOUSE BILL NO. 2236, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1214, by Representatives McDonald and Morrell

Regarding the use of electronic wireless communications devices for text messaging while operating a moving motor vehicle.

The measure was read the second time.

MOTION

Senator Eide moved that the following committee striking amendment by the Committee on Transportation be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a person operating a moving motor vehicle who, by means of an electronic wireless communications device, other than a voice-activated global positioning or navigation system that is permanently affixed to the vehicle, sends, reads, or writes a text message, is guilty of a traffic infraction.

(2) Subsection (1) of this section does not apply to a person operating:

(a) An authorized emergency vehicle; or

(b) A moving motor vehicle while using an electronic wireless communications device to:

(i) Report illegal activity;

(ii) Summon medical or other emergency help;

(iii) Prevent injury to a person or property; or

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(iv) Relay information between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2008."

MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli to the committee striking amendment be adopted.

On page 1, line 10, after "infraction." insert "A person does not send, read or write a text message when he or she reads, selects or enters a phone number or name in a wireless communications device for the purpose of making a phone call."

Renumber the sections consecutively and correct any internal references accordingly.

WITHDRAWAL OF AMENDMENT

On motion of Senator Zarelli, the amendment by Senator Zarelli on page 1, line 10 to the committee striking amendment to Engrossed House Bill No. 1412 was withdrawn.

MOTION

Senator Eide moved that the following amendment by Senators Eide and Benton to the committee striking amendment be adopted.

On page 1, after "vehicle." on line 21, insert the following: "(3) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense."

WITHDRAWAL OF AMENDMENT

On motion of Senator Eide, the amendment by Senators Eide and Benton on page 1, line 21 to the committee striking amendment to Engrossed House Bill No. 1214 was withdrawn.

MOTION

Senator Benton moved that the following amendment by Senator Benton to the committee striking amendment be adopted.

On page 1, after line 21, insert the following: "(3) Infractions under this act shall not become part of the driver's record under RCW 46.52.101 and 46.52.120. Additionally, a finding that a person has committed a traffic infraction under this section shall not be made available to insurance companies or employers."

Renumber the sections consecutively and correct any internal references accordingly.

WITHDRAWAL OF AMENDMENT

On motion of Senator Benton, the amendment by Senator Benton on page 1, line 21 to the committee striking amendment to Engrossed House Bill No. 1214 was withdrawn.

MOTION

Senator Eide moved that the following amendment by Senators Eide, Benton and Zarelli to the committee striking amendment be adopted.

On page 1, line 10, after "infraction." insert "A person does

not send, read or write a text message when he or she reads, selects or enters a phone number or name in a wireless communications device for the purpose of making a phone call."

On page 1, after line 21, insert the following:

"(3) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.

(4) Infractions under this act shall not become part of the driver's record under RCW 46.52.101 and 46.52.120. Additionally, a finding that a person has committed a traffic infraction under this section shall not be made available to insurance companies or employers."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Eide and Benton spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Eide, Benton and Zarelli on page 1, line 10 to the committee striking amendment to Engrossed House Bill No. 1214.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Engrossed House Bill No. 1412.

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

MOTION

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

On page 1, line 2 of the title, after "messages;" strike the remainder of the title and insert "adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Eide, the rules were suspended, Engrossed House Bill No. 1214 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Eide spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Kline and Poulsen were excused.

MOTION

On motion of Senator Marr, Senator Tom was excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1214 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of

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Engrossed House Bill No. 1214 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 15; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McCaslin, Murray, Oemig, Pflug, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker, Tom and Weinstein - 32

Voting nay: Senators Benton, Brandland, Carrell, Clements, Hewitt, Holmquist, Honeyford, McAuliffe, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli - 15

Excused: Senators Kline and Poulsen - 2

ENGROSSED HOUSE BILL NO. 1214 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2366, by House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Jarrett, Ormsby, Hunter and Kenney)

Requiring oversight of state agency housing decisions.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2366 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Fairley was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2366.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2366 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Fairley, Kline and Poulsen - 3

SUBSTITUTE HOUSE BILL NO. 2366, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1401, by House Committee on Capital Budget (originally sponsored by

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Representatives Pettigrew, Springer, Dunn, McCune, Miloscia, Chase and Santos)

Regarding the acquisition of land for affordable housing.

The measure was read the second time.

MOTION

On motion of Senator Weinstein, the rules were suspended, Second Substitute House Bill No. 1401 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Weinstein spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1401.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1401 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Fairley and Poulsen - 2

SECOND SUBSTITUTE HOUSE BILL NO. 1401, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1443, by Representatives Grant, Buri, Blake, Walsh, B. Sullivan, Linville, Hailey, Newhouse and O'Brien

Creating a public utility tax deduction for the transportation of agricultural commodities.

The measure was read the second time.

MOTION

On motion of Senator Rasmussen, the rules were suspended, House Bill No. 1443 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rasmussen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1443.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1443 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, Kline, Kohl-Welles,

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Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senator Keiser - 1

Excused: Senators Fairley and Poulsen - 2

HOUSE BILL NO. 1443, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1671, by Representative Green

Modifying provisions relating to reclassifications, class studies, and salary adjustments.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1671 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Keiser was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1671.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1671 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 43

Voting nay: Senators Holmquist, Honeyford, McCaslin and Morton - 4

Excused: Senators Keiser and Poulsen - 2

HOUSE BILL NO. 1671, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1598, by Representatives Kretz, Ericks, Blake, Pettigrew, Armstrong, Warnick, Sump, Uptegrove, Newhouse, Kristiansen and Condotta

Requiring recipients of money from the salmon recovery funding board to agree to disclose information regarding the funding in compliance with chapter 42.56 RCW.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 77.85.130 and 2005 c 309 s 8, 2005 c 271 s 1, and 2005 c 257 s 3 are each reenacted and amended to read as follows:

(1) The salmon recovery funding board shall develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration. To the extent practicable the board shall adopt an annual allocation of funding. The allocation should address both protection and restoration of habitat, and should recognize the varying needs in each area of the state on an equitable basis. The board has the discretion to partially fund, or to fund in phases, salmon habitat projects. The board may annually establish a maximum amount of funding available for any individual project, subject to available funding. No projects required solely as a mitigation or a condition of permitting are eligible for funding.

(2)(a) In evaluating, ranking, and awarding funds for projects and activities the board shall give preference to projects that:

(i) Are based upon the limiting factors analysis identified under RCW 77.85.060;

(ii) Provide a greater benefit to salmon recovery based upon the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHIAP), and any comparable science-based assessment when available;

(iii) Will benefit listed species and other fish species;

(iv) Will preserve high quality salmonid habitat; and

(v) Are included in a regional or watershed-based salmon recovery plan that accords the project, action, or area a high priority for funding.

(b) In evaluating, ranking, and awarding funds for projects and activities the board shall also give consideration to projects that:

(i) Are the most cost-effective;

(ii) Have the greatest matched or in-kind funding;

(iii) Will be implemented by a sponsor with a successful record of project implementation; ~~(and)~~

(iv) Involve members of the veterans conservation corps established in RCW 43.60A.150; and

(v) Are part of a regionwide list developed by lead entities.

(3) The board may reject, but not add, projects from a habitat project list submitted by a lead entity for funding.

(4) The board shall establish criteria for determining when block grants may be made to a lead entity. The board may provide block grants to the lead entity to implement habitat project lists developed under RCW 77.85.050, subject to available funding. The board shall determine an equitable minimum amount of project funds for each recovery region, and shall distribute the remainder of funds on a competitive basis. The board may also provide block grants to the lead entity or regional recovery organization to assist in carrying out functions described under this chapter. Block grants must be expended consistent with the priorities established for the board in subsection (2) of this section. Lead entities or regional recovery organizations receiving block grants under this subsection shall provide an annual report to the board summarizing how funds were expended for activities consistent with this chapter, including the types of projects funded, project outcomes, monitoring results, and administrative costs.

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(5) The board may waive or modify portions of the allocation procedures and standards adopted under this section in the award of grants or loans to conform to legislative appropriations directing an alternative award procedure or when the funds to be awarded are from federal or other sources requiring other allocation procedures or standards as a condition of the board's receipt of the funds. The board shall develop an integrated process to manage the allocation of funding from federal and state sources to minimize delays in the award of funding while recognizing the differences in state and legislative appropriation timing.

(6) The board may award a grant or loan for a salmon recovery project on private or public land when the landowner has a legal obligation under local, state, or federal law to perform the project, when expedited action provides a clear benefit to salmon recovery, and there will be harm to salmon recovery if the project is delayed. For purposes of this subsection, a legal obligation does not include a project required solely as a mitigation or a condition of permitting.

(7) Property acquired or improved by a project sponsor may be conveyed to a federal agency if: (a) The agency agrees to comply with all terms of the grant or loan to which the project sponsor was obligated; or (b) the board approves: (i) Changes in the terms of the grant or loan, and the revision or removal of binding deed of right instruments; and (ii) a memorandum of understanding or similar document ensuring that the facility or property will retain, to the extent feasible, adequate habitat protections; and (c) the appropriate legislative authority of the county or city with jurisdiction over the project area approves the transfer and provides notification to the board.

(8) Any project sponsor receiving funding from the salmon recovery funding board that is not subject to disclosure under chapter 42.56 RCW must, as a mandatory contractual prerequisite to receiving the funding, agree to disclose any information in regards to the expenditure of that funding as if the project sponsor was subject to the requirements of chapter 42.56 RCW."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to House Bill No. 1598.

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

MOTION

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

On page 1, line 2 of the title, after "recovery;" strike the remainder of the title and insert "and reenacting and amending RCW 77.85.130."

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Bill No. 1598 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 1598 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1598 as amended by the Senate and the bill passed the

Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Keiser and Poulsen - 2

HOUSE BILL NO. 1598 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2357, by Representatives McIntire and Fromhold

Allowing a school district to transfer certain revenue into the district's capital projects account.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79.64.110 and 2003 c 334 s 207 are each amended to read as follows:

Any moneys derived from the lease of state forest lands or from the sale of valuable materials, oils, gases, coal, minerals, or fossils from those lands, must be distributed as follows:

(1) State forest lands acquired through RCW 79.22.040 or by exchange for lands acquired through RCW 79.22.040:

(a) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board, must be returned to the forest development account in the state general fund.

(b) Any balance remaining must be paid to the county in which the land is located to be paid, distributed, and prorated, except as otherwise provided in this section, to the various funds in the same manner as general taxes are paid and distributed during the year of payment.

(c) Any balance remaining, paid to a county with a population of less than sixteen thousand, must first be applied to the reduction of any indebtedness existing in the current expense fund of the county during the year of payment.

(d) With regard to moneys remaining under this subsection (1), within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date.

(2) State forest lands acquired through RCW 79.22.010 or by exchange for lands acquired through RCW 79.22.010, except as provided in RCW 79.64.120:

(a) Fifty percent shall be placed in the forest development account.

(b) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the

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county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

(3) A school district may transfer amounts deposited in its debt service fund pursuant to this section into its capital projects fund as authorized in RCW 28A.320.330.

Sec. 2. RCW 28A.320.330 and 2002 c 275 s 2 are each amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, ~~((and))~~ earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation, including the replacement of facilities and systems where periodical repairs are no longer economical. Major renovation and replacement shall include, but shall not be limited to, roofing, heating and ventilating systems, floor covering, and electrical systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

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(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and on-line applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forest land revenues that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 2357.

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

MOTION

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

On page 1, line 1 of the title after "revenues;" strike the remainder of the title and insert "and amending RCW 79.64.110 and 28A.320.330."

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2357 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2357 as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2357 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Keiser and Poulsen - 2

HOUSE BILL NO. 2357 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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PERSONAL PRIVILEGE

Senator Brown: "Thank you Mr. President. I realize I haven't spoken much in the last few days. I want to thank my colleagues on both sides of the aisle. It's always a tough slog in the final days and we haven't always agreed on the bills that came before us but I really appreciate the spirit of the debate, the passion, and the integrity with which people express their differences of opinions. Mr. President, I want to thank you sincerely for your very hard work and your judicious rulings and of course and all the people who have set at the rostrum through hour after hour of scintillating debate. Your patience and your hard work is really appreciated by all of us in the Senate. The phrase. 'It takes a village to raise a child; might have been controversial but I think there can be no dispute that it takes a village to pass a bill. I also want to thank all the staff of the Senate. To make this thing happen everyone does an amazing commitment during the legislative session and even though we're not done yet, I thought it was appropriate as we reach this particular milestone to really express our thanks to everyone who works for the Senate including our dedicated committee staff and caucus staff as well our legislative assistants, the interns, the people in the cafeteria as well as Security and everyone else. It's not the end of session but it is a tough time. We've still got resolution of our differences to go and we have to come back tomorrow, unfortunately, to begin that process but I just want to let everybody know how proud I am of the work that we've done even especially the people that have been persistently encouraging us to pass the last bills on the calendar. We didn't get every good bill done this year so we'll have to take another stab at some of them next year but again thank you all."

PERSONAL PRIVILEGE

Senator Hewitt: "Thank you Mr. President. Well, I'd like to echo the comments of my colleague from the Third. We started out a little rocky, there's no doubt about it, but you know I said this many times this year, you have too many members and I have to few. It was a transition for all of us and it was a learning experience and I know it was an adjustment for all of us because in the past we've been able to work together on issues and sometimes cross the aisles and stop things. This year's was a lot more difficult but I do want to thank you. As I said, we did have a rocky start but I think we ended up fairly well and we're not done yet but I will say with most sincerity we could have absolutely done without yesterday."

PARLIAMENTARY INQUIRY

Senator McCaslin: "Does the ruling party have the authority to move cut off to about 5:20? I had a bill coming up with an amendment and all you did was tease me. The second amendment I've offered so far this year but I haven't had an answer yet Mr. President. Do they have that authority?"

REPLY BY THE PRESIDENT

President Owen: "I'll give you the answer tomorrow morning."

PARLIAMENTARY INQUIRY

Senator McCaslin: "Then, my inquiry is, do they have the authority to move cut off until tomorrow morning? I'm flexible Mr. President."

REPLY BY THE PRESIDENT

President Owen: "With enough votes you can do anything and I'm counting. You could probably do that."

MOTION

At 5:07 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Saturday, April 14, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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