

NINETY-SEVENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, April 14, 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 Hargrove, Poulsen and Tom.

The Sergeant at Arms Color Guard consisting of Ms. Erika Keech and Ms. Shiloh Burgess aides to Senator Parlette, presented the Colors. Senator Morton offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

April 13, 2007

MR. PRESIDENT:

The House has passed the following bills:
ENGROSSED SENATE BILL NO. 5498,
and the same is 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 Rockefeller moved that Gubernatorial Appointment No. 9275, Judy Schurke, as Director of the Department of Labor and Industries, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Eide, Senator Poulsen was excused.

MOTION

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

APPOINTMENT OF JUDY SCHURKE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9275, Judy Schurke as Director of the Department of Labor and Industries.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9275, Judy Schurke as Director of the Department of Labor and Industries and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, 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, Weinstein and Zarelli - 46

Absent: Senators Hargrove and Tom - 2

Excused: Senator Poulsen - 1

Gubernatorial Appointment No. 9275, Judy Schurke, having received the constitutional majority was declared confirmed as Director of the Department of Labor and Industries.

MOTION

On motion of Senator Regala, Senators Hargrove and Kastama were excused.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9253, Keven Rojecki, as a member of the Gambling Commission, be confirmed.

Senators Prentice and Jacobsen spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Tom was excused.

MOTION

On motion of Senator Marr, Senator Kilmer was excused.

APPOINTMENT OF KEVEN ROJECKI

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9253, Keven Rojecki as a member of the Gambling Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9253, Keven Rojecki as a member of the Gambling Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 3; Excused, 1.

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

Absent: Senators Brown, Carrell and Kohl-Welles - 3

Excused: Senator Tom - 1

Gubernatorial Appointment No. 9253, Keven Rojecki, having received the constitutional majority was declared confirmed as a member of the Gambling Commission.

MOTION

At 9:22 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:13 a.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

April 13, 2007

MR. PRESIDENT:

The Speaker has signed: HOUSE BILL NO. 1054, HOUSE BILL NO. 1069, SUBSTITUTE HOUSE BILL NO. 1135, HOUSE BILL NO. 1247, ENGROSSED SUBSTITUTE HOUSE BILL NO. 1249, SUBSTITUTE HOUSE BILL NO. 1258, HOUSE BILL NO. 1341, HOUSE BILL NO. 1370, HOUSE BILL NO. 1412, HOUSE BILL NO. 1431, HOUSE BILL NO. 1447, SUBSTITUTE HOUSE BILL NO. 1642, HOUSE BILL NO. 1670, SECOND SUBSTITUTE HOUSE BILL NO. 1677, SUBSTITUTE HOUSE BILL NO. 1693, HOUSE BILL NO. 1747, ENGROSSED SUBSTITUTE HOUSE BILL NO. 1756, SUBSTITUTE HOUSE BILL NO. 1826, HOUSE BILL NO. 1831, HOUSE BILL NO. 1888, HOUSE BILL NO. 1994, ENGROSSED SUBSTITUTE HOUSE BILL NO. 2111, ENGROSSED SUBSTITUTE HOUSE BILL NO. 2164, SUBSTITUTE HOUSE BILL NO. 2286, SUBSTITUTE HOUSE BILL NO. 2300, HOUSE JOINT MEMORIAL NO. 4016, and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 13, 2007

MR. PRESIDENT:

The Speaker has signed: SECOND SUBSTITUTE HOUSE BILL NO. 1009, SUBSTITUTE HOUSE BILL NO. 1039, HOUSE BILL NO. 1064, HOUSE BILL NO. 1084, HOUSE BILL NO. 1137, HOUSE BILL NO. 1218, SUBSTITUTE HOUSE BILL NO. 1338, ENGROSSED HOUSE BILL NO. 1379, HOUSE BILL NO. 1416, HOUSE BILL NO. 1430, SUBSTITUTE HOUSE BILL NO. 1456, HOUSE BILL NO. 1501, SUBSTITUTE HOUSE BILL NO. 1565, SUBSTITUTE HOUSE BILL NO. 1574, HOUSE BILL NO. 1645, HOUSE BILL NO. 1666, SUBSTITUTE HOUSE BILL NO. 1784, SUBSTITUTE HOUSE BILL NO. 1843, ENGROSSED SUBSTITUTE HOUSE BILL NO. 1858, HOUSE BILL NO. 1939, SUBSTITUTE HOUSE BILL NO. 1953, ENGROSSED SUBSTITUTE HOUSE BILL NO. 1968,

SUBSTITUTE HOUSE BILL NO. 2130, HOUSE BILL NO. 2152, HOUSE BILL NO. 2154, HOUSE BILL NO. 2319, ENGROSSED HOUSE JOINT RESOLUTION NO. 4204, SUBSTITUTE HOUSE JOINT RESOLUTION NO. 4215, and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5174, with the following amendment: 5174-S AMH HAIGH PRIN 054; 5174-S AMH CONW PRIN 052

On page 18, after line 3, insert the following: "NEW SECTION. Sec. 1. A new section is added to chapter 41.40 RCW under the subchapter heading "plan 1" to read as follows:

(1) Beginning July 1, 2007, and ending September 30, 2007, an eligible member of plan 1 of the teachers' retirement system may make a one-time irrevocable election, filed in writing with the department, to leave any service credit earned as a member of plan 1 of the teachers' retirement system in that system and join plan 1 of the public employees' retirement system. An eligible member who makes such an election may, upon satisfying the requirements of chapter 41.54 RCW, become a dual member of the two systems in order to combine service in each system for the purpose of determining benefit eligibility.

(2) For the purpose of this section, an "eligible member" means a member of plan 1 of the teachers' retirement system who, at the time of election, has at least ten and not more than twenty years of service credit in that system and who is employed by the public school employees of Washington."

Correct the title.

On page 18, after line 3, insert the following: "Sec. 13. RCW 41.32.813 and 2006 c 257 s 1 are each amended to read as follows:

(1) An active member who has completed a minimum of ((five))two years of creditable service in the teachers' retirement system may, upon written application to the department, make a one-time purchase of up to seven years of service credit for public education experience outside the Washington state retirement system, subject to the following limitations:

(a) The public education experience being claimed must have been performed as a teacher in a public school in another state or with the federal government; ((and))

(b) The public education experience being claimed must have been covered by a retirement or pension plan provided by a state or political subdivision of a state, or by the federal government; and

(c) The member is not currently receiving a benefit or currently eligible to receive an unreduced retirement benefit from a retirement or pension plan of a state or political subdivision of a state or the federal government that includes the service credit to be purchased.

(2) The service credit purchased shall be membership service, and may be used to qualify the member for retirement.

(3) The member shall pay the actuarial value of the resulting increase in the member's benefit calculated in a manner consistent with the department's method for calculating payments for reestablishing service credit under RCW 41.50.165.

(4) The member may pay all or part of the cost of the service credit to be purchased with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a

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rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) The employer also may pay all or a portion of the member's cost of the service credit purchased under this section.

Sec. 14. RCW 41.32.868 and 2006 c 257 s 2 are each amended to read as follows:

(1) An active member who has completed a minimum of ~~((five))~~two years of creditable service in the teachers' retirement system may, upon written application to the department, make a one-time purchase of up to seven years of service credit for public education experience outside the Washington state retirement system, subject to the following limitations:

(a) The public education experience being claimed must have been performed as a teacher in a public school in another state or with the federal government;

(b) The public education experience being claimed must have been covered by a retirement or pension plan provided by a state or political subdivision of a state, or by the federal government; and

(c) The member is not currently receiving a benefit or currently eligible to receive an unreduced retirement benefit from a retirement or pension plan of a state or political subdivision of a state or the federal government that includes the service credit to be purchased.

(2) The service credit purchased shall be membership service, and may be used to qualify the member for retirement.

(3) The member shall pay the actuarial value of the resulting increase in the member's benefit calculated in a manner consistent with the department's method for calculating payments for reestablishing service credit under RCW 41.50.165.

(4) The member may pay all or part of the cost of the service credit to be purchased with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) The employer also may pay all or a portion of the member's cost of the service credit purchased under this section."

Remember the remaining section.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5224 and ask the House to recede therefrom.

POINT OF ORDER

Senator Pridemore: "Mr. President, pursuant to Senate Rule 66, I would like to make a scope and object case against the house amendments. Substitute Senate Bill No. 5174, as it left this body, was corrective legislation; did not expand the eligibility of the retirement benefits or membership for anyone in the retirement system. The house amendments, in contrast, makes substantive changes to retirement statutes, expand eligibility for various retirement benefits. House amendment 516 enacts a new statute, authorizes certain members of the teachers retirement system to transfer the public retirement system. House amendment 505 expands the eligibility for members of the teachers' retirement system to purchase out-of-state service

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credits. Neither of the house amendments are corrective retirement statutes. Both amendments are new substantive expansions of current retirement benefits so, therefore, outside of the scope and object of the original bill. I ask for your ruling."

MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 5174 was deferred and the bill held it's place on the concurrence calendar.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5224, with the following amendment: 5224-S AMH ENGR H3231.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.85.010 and 2005 c 309 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) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Critical pathways methodology" means a project scheduling and management process for examining interactions between habitat projects and salmonid species, prioritizing habitat projects, and assuring positive benefits from habitat projects.

(3) "Habitat project list" is the list of projects resulting from the critical pathways methodology under RCW 77.85.060(2). Each project on the list must have a written agreement from the landowner on whose land the project will be implemented. Projects include habitat restoration projects, habitat protection projects, habitat projects that improve water quality, habitat projects that protect water quality, habitat-related mitigation projects, and habitat project maintenance and monitoring activities.

(4) "Habitat work schedule" means those projects from the habitat project list that will be implemented during the current funding cycle. The schedule shall also include a list of the entities and individuals implementing projects, the start date, duration, estimated date of completion, estimated cost, and funding sources for the projects.

(5) "Limiting factors" means conditions that limit the ability of habitat to fully sustain populations of salmon. These factors are primarily fish passage barriers and degraded estuarine areas, riparian corridors, stream channels, and wetlands.

(6) "Project sponsor" is a county, city, special district, tribal government, state agency, a combination of such governments through interlocal or interagency agreements, a nonprofit organization, regional fisheries enhancement group, or one or more private citizens. A project sponsored by a state agency may be funded by the board only if it is included on the habitat project list submitted by the lead entity for that area and the state agency has a local partner that would otherwise qualify as a project sponsor.

(7) "Regional recovery organization" or "regional salmon recovery organization" means an entity formed under RCW 77.85.090 for the purpose of recovering salmon, which is recognized in statute or by the governor's salmon recovery office created in RCW 77.85.030.

(8) "Salmon" includes all species of the family Salmonidae which are capable of self-sustaining, natural production.

(9) "Salmon recovery plan" means a state or regional plan developed in response to a proposed or actual listing under the federal endangered species act that addresses limiting factors

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including, but not limited to harvest, hatchery, hydropower, habitat, and other factors of decline.

(10) "Salmon recovery region" means geographic areas of the state identified or formed under RCW 77.85.090 that encompass groups of watersheds in the state with common stocks of salmon identified for recovery activities, and that generally are consistent with the geographic areas within the state identified by the national oceanic and atmospheric administration or the United States fish and wildlife service for activities under the federal endangered species act.

(11) "Salmon recovery strategy" means the strategy adopted under RCW 77.85.150 and includes the compilation of all subbasin and regional salmon recovery plans developed in response to a proposed or actual listing under the federal endangered species act with state hatchery, harvest, and hydropower plans compiled in accordance with RCW 77.85.150.

(12) "Tribe" or "tribes" means federally recognized Indian tribes.

(13) "WRIA" means a water resource inventory area established in chapter 173-500 WAC as it existed on January 1, 1997.

(14) "Owner" means the person holding title to the land or the person under contract with the owner to lease or manage the legal owner's property.

Sec. 2. RCW 77.85.020 and 2005 c 309 s 3 are each amended to read as follows:

(1) ~~((By December 1, 2006))~~ No later than January 31, 2009, and every odd-numbered year until and including 2015, the governor's salmon recovery office shall submit a biennial state of the salmon report to the legislature and the governor regarding the implementation of the state's salmon recovery strategy. The report ~~((may))~~ must include the following:

(a) ~~((A description of the amount of in-kind and financial contributions, including volunteer, private, and state, federal, tribal as available, and local government money directly spent on salmon recovery in response to actual, proposed, or expected endangered species act listings;~~

~~—(b))~~ A summary of habitat projects including but not limited to:

(i) A summary of accomplishments in removing barriers to salmon passage and an identification of existing barriers;

(ii) A summary of salmon restoration efforts undertaken in the past two years;

(iii) A summary of the role which private volunteer initiatives contribute in salmon habitat restoration efforts; and

(iv) A summary of efforts taken to protect salmon habitat;

~~((c))~~ A summary of collaborative efforts undertaken with adjoining states or Canada;

~~—(d))~~ (b) A summary of harvest and hatchery management activities affecting salmon recovery;

~~((e))~~ A summary of information regarding impediments to successful salmon recovery efforts;

~~—(f))~~ (c) A summary of the number and types of violations of existing laws pertaining to: ((i) Water quality, and ((ii)) salmon. The summary ((shall)) may include information about the types of sanctions imposed for these violations((;

~~—(g))~~ Information on the estimated carrying capacity of new habitat created pursuant to chapter 246, Laws of 1998; and

~~—(h))~~ Recommendations to the legislature that would further the success of salmon recovery. The recommendations may include:

~~—(i) The need to expand or improve nonregulatory programs and activities;~~

~~—(ii) The need to expand or improve state and local laws and regulations; and~~

~~—(iii) Recommendations for state funding assistance to recovery activities and projects).~~

(2) The report may include the following:

(a) A description of the amount of in-kind financial contributions, including volunteer, private, state, federal, tribal, as available, and local government funds directly spent on salmon recovery in response to endangered species act listings; and

(b) Information on the estimated carrying capacity of new habitat created pursuant to chapter 246, Laws of 1998.

(3) The report shall summarize the monitoring data coordinated by the ((monitoring)) forum on monitoring salmon recovery and watershed health. The summary ((must)) may include but is not limited to data and analysis related to:

(a) Measures of progress in fish recovery;

(b) Measures of factors limiting recovery as well as trends in such factors; and

(c) The status of implementation of projects and activities.

(4) The department, the department of ecology, the department of natural resources, the state conservation commission, and the forum on monitoring salmon recovery and watershed health shall provide to the governor's salmon recovery office information requested by the office necessary to prepare the state of the salmon report and other reports produced by the office.

Sec. 3. RCW 77.85.030 and 2005 c 309 s 4 are each amended to read as follows:

(1) The governor's salmon recovery office is created within the office of the governor to coordinate state strategy to allow for salmon recovery to healthy sustainable population levels with productive commercial and recreational fisheries. The primary purpose of the office is to coordinate and assist in the development, implementation, and revision of regional salmon recovery plans as an integral part of a statewide strategy developed consistent with the guiding principles and procedures under RCW 77.85.150.

(2) The governor's salmon recovery office is responsible for maintaining the statewide salmon recovery strategy to reflect applicable provisions of regional recovery plans, habitat protection and restoration plans, water quality plans, and other private, local, regional, state agency and federal plans, projects, and activities that contribute to salmon recovery.

(3) The governor's salmon recovery office shall also gather regional recovery plans from regional recovery organizations and submit the plans to the federal fish services for adoption as federal recovery plans. The governor's salmon recovery office shall also work with regional salmon recovery organizations on salmon recovery issues in order to ensure a coordinated and consistent statewide approach to salmon recovery. The governor's salmon recovery office shall work with federal agencies to accomplish implementation of federal commitments in the recovery plans.

(4) The governor's salmon recovery office may also:

(a) Assist state agencies, local governments, landowners, and other interested parties in obtaining federal assurances that plans, programs, or activities are consistent with fish recovery under the federal endangered species act;

(b) Act as liaison to local governments, the state congressional delegation, the United States congress, federally recognized tribes, and the federal executive branch agencies for issues related to the state's salmon recovery plans; ~~((and))~~

(c) Provide periodic reports pursuant to RCW 77.85.020;

(d) Provide, as appropriate, technical and administrative support to the independent science panel or other science-related panels on issues pertaining to salmon recovery;

(e) In cooperation with the regional recovery organizations, prepare a timeline and implementation plan that, together with a schedule and recommended budget, identifies specific actions in regional recovery plans for state agency actions and assistance necessary to implement local and regional recovery plans; and

(f) As necessary, provide recommendations to the legislature that would further the success of salmon recovery, including recommendations for state agency actions in the succeeding biennium and state financial and technical assistance for projects and activities to be undertaken in local and regional salmon recovery plans. The recommendations may include:

(i) The need to expand or improve nonregulatory programs and activities; and

(ii) The need for state funding assistance to recovery activities and projects.

~~((2))~~ (5) This section expires June 30, ~~((2007))~~ 2015.

Sec. 4. RCW 77.85.040 and 2005 c 309 s 5 are each amended to read as follows:

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(1) The governor ~~((shall))~~ may request the ~~((national))~~ Washington academy of sciences, ~~((the American fisheries society, or a comparable institution to screen candidates to serve as members on the))~~ when organized pursuant to chapter 305, Laws of 2005, to impanel an independent science panel on salmon recovery to respond to requests for review pursuant to subsection (2) of this section. ~~((The institution that conducts the screening of the candidates shall submit a list of the nine most qualified candidates to the governor, the speaker of the house of representatives, and the majority leader of the senate.))~~ ~~((candidates))~~ panel shall reflect expertise in habitat requirements of salmon, protection and restoration of salmon populations, artificial propagation of salmon, hydrology, or geomorphology.

~~((2))~~ The speaker of the house of representatives and the majority leader in the senate may each remove one name from the nomination list. The governor shall consult with tribal representatives and the governor shall appoint five scientists from the remaining names on the nomination list.

~~((3))~~ The members of the independent science panel shall serve four-year terms. Vacant positions on the panel shall be filled in the same manner as the original appointments. Members shall serve no more than two full terms. The independent science panel members shall elect the chair of the panel among themselves every two years. ~~((Based upon available funding, the governor's salmon recovery office may contract for services (with members) of the independent science panel for compensation under chapter 39.29 RCW.~~

~~((4))~~ (2) The independent science panel shall be governed by ((generally accepted)) guidelines and practices governing the activities of ((independent science boards such as)) the ((national)) Washington academy of sciences. The purpose of the independent science panel is to help ensure that sound science is used in salmon recovery efforts. The governor's salmon recovery office may, during the time it is constituted, request ~~((review of regional salmon recovery plans by the science review panel))~~ that the panel review, investigate, and provide its findings on scientific questions relating to the state's salmon recovery efforts. The science panel does not have the authority to review individual projects or habitat project lists developed under RCW 77.85.050 or 77.85.060 or to make policy decisions. The panel shall ~~((periodically))~~ submit its findings and recommendations under this subsection to the legislature and the governor.

Sec. 5. RCW 77.85.090 and 2005 c 309 s 7 are each amended to read as follows:

(1) The southwest Washington salmon recovery region, whose boundaries are provided in chapter 60, Laws of 1998, is created.

(2) Lead entities within a salmon recovery region that agree to form a regional salmon recovery organization may be recognized by the governor's salmon recovery office created in RCW 77.85.030, during the time it is constituted, as a regional recovery organization. The regional recovery organization may plan, coordinate, and monitor the implementation of a regional recovery plan in accordance with RCW 77.85.150. Regional recovery organizations existing as of July 24, 2005, that have developed draft recovery plans approved by the governor's salmon recovery office by July 1, 2005, may continue to plan, coordinate, and monitor the implementation of regional recovery plans.

Sec. 6. RCW 77.85.150 and 2005 c 309 s 9 are each amended to read as follows:

(1) The governor shall, with the assistance of the governor's salmon recovery office, ((shall)) during the time it is constituted, maintain and revise, as appropriate, a statewide salmon recovery strategy.

(2) The governor and the salmon recovery office shall be guided by the following considerations in maintaining and revising the strategy:

(a) The strategy should identify statewide initiatives and responsibilities with regional recovery plans and local watershed initiatives as the principal means for implementing the strategy;

(b) The strategy should emphasize collaborative, incentive-based approaches;

(c) The strategy should address all factors limiting the recovery of Washington's listed salmon stocks, including habitat and water quality degradation, harvest and hatchery management, inadequate streamflows, and other barriers to fish passage. Where other limiting factors are beyond the state's jurisdictional authorities to respond to, such as some natural predators and high seas fishing, the strategy shall include the state's requests for federal action to effectively address these factors;

(d) The strategy should identify immediate actions necessary to prevent extinction of a listed salmon stock, establish performance measures to determine if restoration efforts are working, recommend effective monitoring and data management, and recommend to the legislature clear and certain measures to be implemented if performance goals are not met;

(e) The strategy shall rely on the best scientific information available and provide for incorporation of new information as it is obtained;

(f) The strategy should seek a fair allocation of the burdens and costs upon economic and social sectors of the state whose activities may contribute to limiting the recovery of salmon; and

(g) The strategy should seek clear measures and procedures from the appropriate federal agencies for removing Washington's salmon stocks from listing under the federal act.

~~((Beginning on September 1, 2000,))~~ If the strategy ((shall be)) is updated ((through)), an active and thorough public involvement process, including early and meaningful opportunity for public comment, must be utilized. In obtaining public comment, the governor's salmon recovery office shall ((hold public meetings)) work with regional salmon recovery organizations throughout the state and shall encourage regional and local recovery planning efforts to ~~((similarly))~~ ensure an active public involvement process.

(4) This section shall apply prospectively only and not retroactively. Nothing in this section shall be construed to invalidate actions taken in recovery planning at the local, regional, or state level prior to July 1, 1999.

Sec. 7. RCW 43.41.270 and 2001 c 227 s 2 are each amended to read as follows:

(1) The office of financial management shall assist natural resource-related agencies in developing outcome-focused performance measures for administering natural resource-related and environmentally based grant and loan programs. These performance measures are to be used in determining grant eligibility, for program management and performance assessment.

(2) The office of financial management and the governor's salmon recovery office, during the time it is constituted, shall assist natural resource-related agencies in developing recommendations for a monitoring program to measure outcome-focused performance measures required by this section. The recommendations must be consistent with the framework and coordinated monitoring strategy developed by the monitoring oversight committee established in RCW 77.85.210.

(3) Natural resource agencies shall consult with grant or loan recipients including local governments, tribes, nongovernmental organizations, and other interested parties, and report to the office of financial management on the implementation of this section. ~~((The office of financial management shall report to the appropriate legislative committees of the legislature on the agencies' implementation of this section, including any necessary changes in current law, and funding requirements by July 31, 2002. Natural resource agencies shall assist the office of financial management in preparing the report, including complying with time frames for submitting information established by the office of financial management.))~~

(4) For purposes of this section, "natural resource-related agencies" include the department of ecology, the department of natural resources, the department of fish and wildlife, the state conservation commission, the interagency committee for outdoor recreation, the salmon recovery funding board, and the public works board within the department of community, trade, and economic development.

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(5) For purposes of this section, "natural resource-related environmentally based grant and loan programs" includes the conservation reserve enhancement program; dairy nutrient management grants under chapter 90.64 RCW; state conservation commission water quality grants under chapter 89.08 RCW; coordinated prevention grants, public participation grants, and remedial action grants under RCW 70.105D.070; water pollution control facilities financing under chapter 70.146 RCW; aquatic lands enhancement grants under RCW ((79.24.580)) 79.105.150; habitat grants under the Washington wildlife and recreation program under RCW 79A.15.040; salmon recovery grants under chapter 77.85 RCW; and the public ((work[s]) works trust fund program under chapter 43.155 RCW. The term also includes programs administered by the department of fish and wildlife related to protection or recovery of fish stocks which are funded with moneys from the capital budget.

NEW SECTION. Sec. 8. A new section is added to chapter 77.85 RCW to read as follows:

(1) The legislature finds that pursuant to chapter 298, Laws of 2001, and acting upon recommendations of the state's independent science panel, the monitoring oversight committee developed recommendations for a comprehensive statewide strategy for monitoring watershed health, with a focus upon salmon recovery, entitled *The Washington Comprehensive Monitoring Strategy and Action Plan for Watershed Health and Salmon Recovery*. The legislature further finds that funding to begin implementing the strategy and action plan was provided in the 2003-2005 biennial budget, and that executive order 04-03 was issued to coordinate state agency implementation activities. It is therefore the purpose of this section to adopt the strategy and action plan and to provide guidance to ensure that the coordination activities directed by executive order 04-03 are effectively carried out.

(2) The forum on monitoring salmon recovery and watershed health is created. The governor shall appoint a person with experience and expertise in natural resources and environmental quality monitoring to chair the forum. The chair shall serve four-year terms and may serve successive terms. The forum shall include representatives of the following state agencies and regional entities that have responsibilities related to monitoring of salmon recovery and watershed health:

- (a) Department of ecology;
- (b) Salmon recovery funding board;
- (c) Salmon recovery office;
- (d) Department of fish and wildlife;
- (e) Department of natural resources;
- (f) Puget Sound action team, or a successor state agency;
- (g) Conservation commission;
- (h) Department of agriculture;
- (i) Department of transportation; and
- (j) Each of the regional salmon recovery organizations.

(3) The forum on monitoring salmon recovery and watershed health shall provide a multiagency venue for coordinating technical and policy issues and actions related to monitoring salmon recovery and watershed health.

(4) The forum on monitoring salmon recovery and watershed health shall recommend a set of measures for use by the governor's salmon recovery office in the state of the salmon report to convey results and progress on salmon recovery and watershed health in ways that are easily understood by the general public.

(5) The forum on monitoring salmon recovery and watershed health shall invite the participation of federal, tribal, regional, and local agencies and entities that carry out salmon recovery and watershed health monitoring, and work toward coordination and standardization of measures used.

(6) The forum on monitoring salmon recovery and watershed health shall periodically report to the governor and the appropriate standing committees of the senate and house of representatives on the forum's activities and recommendations for improving monitoring programs by state agencies, coordinating with the governor's salmon recovery office biennial report as required by RCW 77.85.020.

(7) The forum shall review pilot monitoring programs including those that integrate (a) data collection, management, and access; and (b) information regarding habitat projects and project management.

(8) The forum on monitoring salmon recovery and watershed health shall review and make recommendations to the office of financial management and the appropriate legislative committees on agency budget requests related to monitoring salmon recovery and watershed health. These recommendations must be made no later than September 15th of each year. The goal of this review is to prioritize and integrate budget requests across agencies.

(9) This section expires June 30, 2015."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5224 and ask the House to recede therefrom.

Senators Jacobsen spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Jacobsen that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5224 and ask the House to recede therefrom.

The motion by Senator Jacobsen carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5224 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6044, with the following amendment: 6044-S2.E AMH APP H3311.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79.100.010 and 2006 c 153 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) "Abandoned vessel" means (~~the vessel's owner is not known or cannot be located, or if the vessel's owner is known and located but is unwilling to take control of the vessel, and the vessel has been left, moored, or anchored in the same area without the express consent, or contrary to the rules, of the owner, manager, or lessee of the aquatic lands below or on which the vessel is located for either a period of more than thirty consecutive days or for more than a total of ninety days in any three hundred sixty-five day period~~) a vessel that has been left, moored, or anchored in the same area without the express consent, or contrary to the rules of, the owner, manager, or lessee of the aquatic lands below or on which the vessel is located for either a period of more than thirty consecutive days or for more than a total of ninety days in any three hundred sixty-five-day period, and the vessel's owner is: (a) Not known or cannot be located; or (b) known and located but is unwilling to take control of the vessel. For the purposes of this subsection (1) only, "in the same area" means within a radius of five miles of any location where the vessel was previously moored or anchored on aquatic lands.

(2) "Aquatic lands" means all tidelands, shorelands, harbor areas, and the beds of navigable waters, including lands owned by the state and lands owned by other public or private entities.

(3) "Authorized public entity" includes any of the following: The department of natural resources; the department of fish and wildlife; the parks and recreation commission; a metropolitan park district; a port district; and any city, town, or county with

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ownership, management, or jurisdiction over the aquatic lands where an abandoned or derelict vessel is located.

(4) "Department" means the department of natural resources.

(5) "Derelict vessel" means the vessel's owner is known and can be located, and exerts control of a vessel that:

(a) Has been moored, anchored, or otherwise left in the waters of the state or on public property contrary to RCW 79.02.300 or rules adopted by an authorized public entity;

(b) Has been left on private property without authorization of the owner; or

(c) Has been left for a period of seven consecutive days, and:

(i) Is sunk or in danger of sinking;

(ii) Is obstructing a waterway; or

(iii) Is endangering life or property.

(6) "Owner" means any natural person, firm, partnership, corporation, association, government entity, or organization that has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(7) "Vessel" (~~has the same meaning as defined in RCW 53.08.310~~) means every species of watercraft or other mobile artificial contrivance, powered or unpowered, intended to be used for transporting people or goods on water or for floating marine construction or repair and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft, or any attached floats or debris.

Sec. 2. RCW 79.100.040 and 2006 c 153 s 3 are each amended to read as follows:

(1) Prior to exercising the authority granted in RCW 79.100.030, the authorized public entity must first obtain custody of the vessel. To do so, the authorized public entity must:

(a) Mail notice of its intent to obtain custody, at least twenty days prior to taking custody, to the last known address of the previous owner to register the vessel in any state or with the federal government and to any lien holders or secured interests on record. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a state or federal agency;

(b) Post notice of its intent clearly on the vessel for thirty days and publish its intent at least once, more than ten days but less than twenty days prior to taking custody, in a newspaper of general circulation for the county in which the vessel is located; and

(c) Post notice of its intent on the department's internet web site on a page specifically designated for such notices. If the authorized public entity is not the department, the department must facilitate the internet posting.

(2) All notices sent, posted, or published in accordance with this section must, at a minimum, explain the intent of the authorized public entity to take custody of the vessel, the rights of the authorized public entity after taking custody of the vessel as provided in RCW 79.100.030, the procedures the owner must follow in order to avoid custody being taken by the authorized public entity, the procedures the owner must follow in order to reclaim possession after custody is taken by the authorized public entity, and the financial liabilities that the owner may incur as provided for in RCW 79.100.060.

(3) (a) If a vessel is: (i) In immediate danger of sinking, breaking up, or blocking navigational channels(??); or (ii) poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination; and (iii) the owner of the vessel cannot be located or is unwilling or unable to assume immediate responsibility for the vessel, any authorized public entity may tow, beach, or otherwise take temporary possession of the vessel.

(b) Before taking temporary possession of the vessel, the authorized public entity must make reasonable attempts to consult with the department or the United States coast guard to ensure that other remedies are not available. The basis for taking temporary possession of the vessel must be set out in writing by the authorized public entity within seven days of taking action and be submitted to the owner, if known, as soon thereafter as is reasonable. If the authorized public entity has

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not already provided the required notice, immediately after taking possession of the vessel, the authorized public entity must initiate the notice provisions in subsection (1) of this section. The authorized public entity must complete the notice requirements of subsection (1) of this section before using or disposing of the vessel as authorized in RCW 79.100.050.

NEW SECTION. Sec. 3. A new section is added to chapter 79.100 RCW to read as follows:

A marina owner may contract with a local government for the purpose of participating in the derelict vessel removal program. The local government shall serve as the authorized public entity for the removal of the derelict vessel from the marina owner's property. The contract must provide for the marina owner to be financially responsible for the removal costs that are not reimbursed by the department as provided under RCW 79.100.100, and any additional reasonable administrative costs incurred by the local government during the removal of the derelict vessel. Prior to the commencement of any removal which will seek reimbursement from the derelict vessel removal program, the contract and the proposed vessel removal shall be submitted to the department for review and approval. The local government shall use the procedure specified under RCW 79.100.100(6).

Sec. 4. RCW 79.100.100 and 2006 c 153 s 6 are each amended to read as follows:

(1) The derelict vessel removal account is created in the state treasury. All receipts from RCW 79.100.050 and 79.100.060 and those moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, deposits from the derelict vessel removal surcharge under section 7 of this act, as well as gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of removal projects associated with this chapter. Moneys in the account may only be spent after appropriation. Expenditures from the account shall be used by the department to reimburse authorized public entities for up to ninety percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. Reimbursement shall not be made unless the department determines that the public entity has made reasonable efforts to identify and locate the party responsible for the vessel, regardless of the title of owner of the vessel. Funds in the account resulting from transfers from the general fund or from the deposit of funds from the watercraft excise tax as provided for under RCW 82.49.030 shall be used to reimburse one hundred percent of these costs and should be prioritized for the removal of large vessels. Costs associated with removal and disposal of an abandoned or derelict vessel under the authority granted in RCW 53.08.320 also qualify for reimbursement from the derelict vessel removal account. In each biennium, up to twenty percent of the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) If the balance of the account reaches one million dollars as of March 1st of any year, exclusive of any transfer or appropriation of funds into the account or funds deposited into the account collected under section 7 of this act, the department must notify the department of licensing and the collection of any fees associated with this account must be suspended for the following fiscal year.

(3) Priority for use of this account is for the removal of derelict and abandoned vessels that are in danger of sinking, breaking up, or blocking navigation channels, or that present environmental risks such as leaking fuel or other hazardous substances. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated

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with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing. The guidelines must also include guidance to the authorized public entities as to what removal activities and associated costs are reasonable and eligible for reimbursement.

(4) The department must keep all authorized public entities apprized of the balance of the derelict vessel removal account and the funds available for reimbursement. The guidelines developed by the department must also be made available to the other authorized public entities. This subsection (4) must be satisfied by utilizing the least costly method, including maintaining the information on the department's internet web site, or any other cost-effective method.

(5) An authorized public entity may contribute its ten percent of costs that are not eligible for reimbursement by using in-kind services, including the use of existing staff, equipment, and volunteers.

(6) This chapter does not guarantee reimbursement for an authorized public entity. Authorized public entities seeking certainty in reimbursement prior to taking action under this chapter may first notify the department of their proposed action and the estimated total costs. Upon notification by an authorized public entity, the department must make the authorized public entity aware of the status of the fund and the likelihood of reimbursement being available. The department may offer technical assistance and assure reimbursement for up to two years following the removal action if an assurance is appropriate given the balance of the fund and the details of the proposed action.

Sec. 5. RCW 88.02.050 and 2005 c 464 s 2 are each amended to read as follows:

(1) Application for a vessel registration shall be made to the department or its authorized agent in the manner and upon forms prescribed by the department. The application shall state the name and address of each owner of the vessel and such other information as may be required by the department, shall be signed by at least one owner, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW.

(2) Five additional dollars must be collected annually from every vessel registration application. These moneys must be distributed in the following manner:

(a) Two dollars must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under section 7 of this act, reaches one million dollars as of March 1st of any year, the collection of the two-dollar fee must be suspended for the following fiscal year.

(b) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879.

(c) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667.

(d) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400.

(3) Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the five-dollar fee created in subsection (2) of this section.

(4) Upon receipt of the application and the registration fee, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the code of federal regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.

(5) The vessel registrations and decals are valid for a period of one year, except that the director of licensing may extend or diminish vessel registration periods, and the decals therefor, for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may

collect prorated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the vessel registration fee, excise tax, and the derelict vessel fee. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for distribution. The form will be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department or its authorized agent for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of one dollar.

Sec. 6. RCW 88.02.050 and 2002 c 286 s 13 are each amended to read as follows:

Application for a vessel registration shall be made to the department or its authorized agent in the manner and upon forms prescribed by the department. The application shall state the name and address of each owner of the vessel and such other information as may be required by the department, shall be signed by at least one owner, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW. In addition, two additional dollars must be collected annually from every vessel registration application. These moneys must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under section 7 of this act, reaches one million dollars as of March 1st of any year, the collection of the two-dollar fee must be suspended for the following fiscal year. Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the two-dollar derelict vessel fee.

Upon receipt of the application and the registration fee, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the code of federal regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.

The vessel registrations and decals are valid for a period of one year, except that the director of licensing may extend or diminish vessel registration periods, and the decals therefor, for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the vessel registration fee, excise tax, and the derelict vessel fee. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for

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distribution. The form will be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department or its authorized agent for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of one dollar.

NEW SECTION. Sec. 7. A new section is added to chapter 88.02 RCW to read as follows:

(1) In order to address the significant backlog of derelict vessels that have accumulated in our state's waters that pose a threat to the health and safety of the people and to our environment, the legislature intends to collect a derelict vessel removal surcharge.

(2) In addition to the fees collected under RCW 88.02.050, the department shall collect an annual derelict vessel removal surcharge of one dollar effective with vessel registrations that are due or will become due on or after January 1, 2008. The revenue generated from the derelict vessel surcharge must be deposited into the derelict vessel removal account established under RCW 79.100.100, and is to be used only for the removal of vessels that are less than seventy-five feet in length.

(3) This section expires January 1, 2014.

NEW SECTION. Sec. 8. (1) The department of natural resources, in consultation with the department of revenue, the department of licensing, and other appropriate stakeholder groups, shall examine:

(a) The costs and benefits of extending a derelict vessel removal fee or surcharges to vessels that are not subject to RCW 88.02.050; and

(b) The use of alternative revenue sources, such as the watercraft excise tax, in order to more equitably distribute the financial responsibility of supporting the cost of the derelict vessel program. The departments shall submit a report of the findings to the appropriate policy and fiscal committees of the legislature by November 1, 2007.

(2) The department of natural resources, the department of ecology, representatives from the ship demolition industry, and representatives from the environmental community shall convene a work group to discuss operations and permitting requirements surrounding the demolition and disposal of large abandoned and derelict vessels. The department of natural resources shall consider the findings of the work group when updating the guidelines for the derelict vessel program.

NEW SECTION. Sec. 9. Section 5 of this act expires June 30, 2012.

NEW SECTION. Sec. 10. Section 6 of this act takes effect June 30, 2012."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6044 and ask the House to recede therefrom.

Senators Jacobsen spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Jacobsen that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6044 and ask the House to recede therefrom.

The motion by Senator Jacobsen carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6044 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5050, with the following amendment: 5050-S AMH CL H3289.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.118.041 and 1998 c 298 s 4 are each amended to read as follows:

(1) If the manufacturer, its agent, or the new motor vehicle dealer is unable to conform the new motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within forty calendar days of a consumer's written request to the manufacturer's corporate, dispute resolution, zone, or regional office address shall, at the option of the consumer, replace or repurchase the new motor vehicle.

(a) The replacement motor vehicle shall be identical or reasonably equivalent to the motor vehicle to be replaced as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options. Where the manufacturer supplies a replacement motor vehicle, the manufacturer shall be responsible for sales tax, license, registration fees, and refund of any incidental costs. Compensation for a reasonable offset for use shall be paid by the consumer to the manufacturer in the event that the consumer accepts a replacement motor vehicle.

(b) When repurchasing the new motor vehicle, the manufacturer shall refund to the consumer the purchase price, all collateral charges, and incidental costs, less a reasonable offset for use. When repurchasing the new motor vehicle, in the instance of a lease, the manufacturer shall refund to the consumer all payments made by the consumer under the lease including but not limited to all lease payments, trade-in value or inception payment, security deposit, all collateral charges and incidental costs less a reasonable offset for use. The manufacturer shall make such payment to the lessor and/or lienholder of record as necessary to obtain clear title to the motor vehicle and upon the lessor's and/or lienholder's receipt of that payment and payment by the consumer of any late payment charges, the consumer shall be relieved of any future obligation to the lessor and/or lienholder.

(c) The reasonable offset for use shall be computed by multiplying the number of miles that the vehicle traveled directly attributable to use by the consumer during the time between the original purchase, lease, or in-service date and the date beginning the first attempt to diagnose or repair a nonconformity which ultimately results in the repurchase or replacement of the vehicle multiplied times the purchase price, and dividing the product by one hundred twenty thousand, except in the case of a motor home, in which event it shall be divided by ninety thousand. However, the reasonable offset for use calculation total for a motor home is subject to modification by the board by decreasing or increasing the offset total up to a maximum of one-third of the offset total. The board may modify the offset total in those circumstances where the board determines that the wear and tear on those portions of the motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space are significantly greater or significantly less than that which could be reasonably expected based on the mileage attributable to the consumer's use of the motor home. Except in the case of a motor home, where a manufacturer repurchases or replaces a vehicle solely due to accumulated days out of service by reason of diagnosis or repair of one or more nonconformities, "the number of miles that the vehicle traveled directly attributable to use by the consumer"

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shall be limited to the period between the original purchase, lease, or in-service date and the date of the fifteenth cumulative calendar day out of service. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects repurchase of the motor vehicle, "the number of miles that the vehicle traveled" directly attributable to use by the consumer shall be ~~((calculated from))~~ limited to the period between the date of purchase ~~((or)),~~ lease by, or transfer to the consumer and the date of the consumer's initial attempt to obtain diagnosis or repair of a nonconformity which ultimately results in the repurchase or replacement of the vehicle or which adds to thirty or more cumulative calendar days out of service. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects replacement of the motor vehicle, "the number of miles that the vehicle traveled" directly attributable to use by the consumer shall be calculated from the date of the original purchase, lease, or in-service date and the first attempt to diagnose or repair a nonconformity which ultimately results in the replacement of the vehicle. Except in the case of a motor home, where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the manufacturer replaces the vehicle solely due to accumulated days out of service by reason of diagnosis or repair of one or more nonconformities, "the number of miles that the vehicle traveled" directly attributable to use by the consumer shall be calculated from the date of the original purchase, lease, or in service date and the date of the fifteenth cumulative calendar day out of service.

(d) In the case of a motor vehicle that is a motor home, where a manufacturer repurchases or replaces a motor home from the first purchaser, lessee, or transferee or from the second or subsequent purchaser, lessee, or transferee solely due to accumulated days out of service by reason of diagnosis or repair of one or more nonconformities, "the number of miles that a motor home traveled directly attributable to use by the consumer" shall be limited to the period between the original purchase, lease, or in-service date and the date of the thirtieth cumulative calendar day out-of-service.

(2) Reasonable number of attempts, except in the case of a new motor vehicle that is a motor home acquired after June 30, 1998, shall be deemed to have been undertaken by the manufacturer, its agent, or the new motor vehicle dealer to conform the new motor vehicle to the warranty within the warranty period, if: (a) The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the serious safety defect continues to exist; (b) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (c) the vehicle is out of service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first. A new motor vehicle is deemed to have been "subject to diagnose or repair" when a consumer presents the new motor vehicle for warranty service at a service and repair facility authorized, designated, or maintained by a manufacturer to provide warranty services or a facility to which the manufacturer or an authorized facility has directed the consumer to obtain warranty service. A new motor vehicle has not been "subject to diagnose or repair" if the consumer refuses to allow the facility to attempt or complete a recommended warranty repair, or demands return of the vehicle to the

consumer before an attempt to diagnose or repair can be completed.

(3)(a) In the case of a new motor vehicle that is a motor home acquired after June 30, 1998, a reasonable number of attempts shall be deemed to have been undertaken by the motor home manufacturers, their respective agents, or their respective new motor vehicle dealers to conform the new motor vehicle to the warranty within the warranty period, if: (i) The same serious safety defect has been subject to diagnosis or repair one or more times during the period of coverage of the applicable motor home manufacturer's written warranty, plus a final attempt to repair the vehicle as provided for in (b) of this subsection, and the serious safety defect continues to exist; (ii) the same nonconformity has been subject to repair three or more times, at least one of which is during the period of coverage of the applicable motor home manufacturer's written warranty, plus a final attempt to repair the vehicle as provided for in (b) of this subsection, and the nonconformity continues to exist; or (iii) the vehicle is out of service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of sixty calendar days aggregating all motor home manufacturer days out of service, and the motor home manufacturers have had at least one opportunity to coordinate and complete an inspection and any repairs of the vehicle's nonconformities after receipt of notification from the consumer as provided for in (c) of this subsection. For purposes of this subsection, each motor home manufacturer's written warranty must be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(b) In the case of a new motor vehicle that is a motor home, after one attempt has been made to repair a serious safety defect, or after three attempts have been made to repair the same nonconformity, the consumer shall give written notification of the need to repair the nonconformity to each of the motor home manufacturers at their respective corporate, zone, or regional office addresses to allow the motor home manufacturers to coordinate and complete a final attempt to cure the nonconformity. The motor home manufacturers each have fifteen days, commencing upon receipt of the notification, to respond and inform the consumer of the location of the facility where the vehicle will be repaired. If the vehicle is unsafe to drive due to a serious safety defect, or to the extent the repair facility is more than one hundred miles from the motor home location, the motor home manufacturers are responsible for the cost of transporting the vehicle to and from the repair facility. The motor home manufacturers have a cumulative total of thirty days, commencing upon delivery of the vehicle to the designated repair facility by the consumer, to conform the vehicle to the applicable motor home manufacturer's written warranty. This time period may be extended if the consumer agrees in writing. If a motor home manufacturer fails to respond to the consumer or perform the repairs within the time period prescribed, that motor home manufacturer is not entitled to a final attempt to cure the nonconformity.

(c) In the case of a new motor vehicle that is a motor home, if the vehicle is out of service by reason of diagnosis or repair of one or more nonconformities by the motor home manufacturers, their respective agents, or their respective new motor vehicle dealers for a cumulative total of thirty or more days aggregating all motor home manufacturer days out of service, the consumer shall so notify each motor home manufacturer in writing at their respective corporate, zone, or regional office addresses to allow the motor home manufacturers, their respective agents, or their respective new motor vehicle dealers an opportunity to coordinate and complete an inspection and any repairs of the vehicle's nonconformities. The motor home manufacturers have fifteen days, commencing upon receipt of the notification, to respond and inform the consumer of the location of the facility

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where the vehicle will be repaired. If the vehicle is unsafe to drive due to a serious safety defect, or to the extent the repair facility is more than one hundred miles from the motor home location, the motor home manufacturers are responsible for the cost of transporting the vehicle to and from the repair facility. Once the buyer delivers the vehicle to the designated repair facility, the inspection and repairs must be completed by the motor home manufacturers either (i) within ten days or (ii) before the vehicle is out of service by reason of diagnosis or repair of one or more nonconformities for sixty days, whichever time period is longer. This time period may be extended if the consumer agrees in writing. If a motor home manufacturer fails to respond to the consumer or perform the repairs within the time period prescribed, that motor home manufacturer is not entitled to at least one opportunity to inspect and repair the vehicle's nonconformities after receipt of notification from the buyer as provided for in this subsection (3)(c).

(4) No new motor vehicle dealer may be held liable by the manufacturer for any collateral charges, incidental costs, purchase price refunds, or vehicle replacements. Manufacturers shall not have a cause of action against dealers under this chapter. Consumers shall not have a cause of action against dealers under this chapter, but a violation of any responsibilities imposed upon dealers under this chapter is a per se violation of chapter 19.86 RCW. Consumers may pursue rights and remedies against dealers under any other law, including chapters 46.70 and 46.71 RCW. Manufacturers and consumers may not make dealers parties to arbitration board proceedings under this chapter."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Weinstein moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5050.

Senator Weinstein spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Weinstein that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5050.

The motion by Senator Weinstein carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5050 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5050, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5050, as amended by the House, 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 SENATE BILL NO. 5050, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5108, with the following amendment: 5108-S AMH ENGR H3161.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS AND PURPOSE.

The legislature finds that maintaining the capacity to provide adequate food and fiber resources is essential to the long-term sustainability of the state's citizens and economy. The nation's population has reached three hundred million and will continue to increase for the foreseeable future. Further, the world population is now over six billion and is projected to reach nine billion by the year 2050.

In Washington state, the population is growing by over one million people every decade with much of this growth occurring in western Washington. This growth is increasing the competition for land not only for housing, but also associated retail, commercial, industrial, and leisure industries.

The legislature finds that many once-productive agricultural areas in western Washington have been overtaken and irreversibly converted to nonagricultural uses. Other agricultural areas in the state have diminished to the point that they are dangerously close to losing the land mass necessary to be economically viable. Further, only a limited number of areas in western Washington still retain a sufficient agricultural land base and the necessary agricultural infrastructure to continue to be economically viable both in the short term and the long term.

The legislature recognizes that because this significant decline has largely occurred in less than a half century, it is imperative that mechanisms be established at the state level to focus attention, take the action needed to retain agricultural land, and ensure the opportunity for future generations to farm these lands.

The legislature finds that history shows that previous advanced civilizations in the world were founded on highly productive agricultural lands and food production systems but when the land or its productivity was lost, the civilizations declined. In contrast, other civilizations have existed for millennia because they maintained their agricultural land base, its productivity, and economic conditions sufficient to maintain stewardship of their land.

The legislature finds that there is a finite quantity of high quality agricultural land and that often this agricultural land is mistakenly viewed as an expendable resource. The legislature finds that the retention of agricultural land is desirable, not only to produce food, livestock, and other agricultural products, but also to maintain our state economy and preferable environmental conditions. For these reasons, and because it is essential that agricultural production be sufficient to meet the needs of our growing population, commitment to the retention of agricultural land should be reflected at the state policy level by the creation of an office of farmland preservation to support the retention of farmland and the viability of farming for future generations.

NEW SECTION. Sec. 2. OFFICE OF FARMLAND PRESERVATION--POWERS AND DUTIES. (1) The office of farmland preservation is created and shall be located within the state conservation commission.

(2) Staff support for the office shall be provided by the state conservation commission.

(3) The office of farmland preservation may:

(a) Provide advice and assist the state conservation commission in implementing the provisions of RCW 89.08.530

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and 89.08.540, including the merits of leasing or purchasing easements for fixed terms in addition to purchasing easements in perpetuity;

(b) Develop recommendations for the funding level and for the use of the agricultural conservation easements account established in RCW 89.08.540 with the guidance of the farmland preservation task force established under section 3 of this act;

(c) With input from the task force created in section 3 of this act, provide an analysis of the major factors that have led to past declines in the amount and use of agricultural lands in Washington and of the factors that will likely affect retention and economic viability of these lands into the future including, but not limited to, pressures to convert land to nonagricultural uses, loss of processing plants and markets, loss of profitability, productivity, and competitive advantage, urban sprawl, water availability and quality, restrictions on agricultural land use, and conversion to recreational or other uses;

(d) Develop model programs and tools, including innovative economic incentives for landowners, to retain agricultural land for agricultural production, with the guidance from the farmland preservation task force created under section 3 of this act;

(e) Provide technical assistance to localities as they develop and implement programs, mechanisms, and tools to encourage the retention of agricultural lands;

(f) Develop a grant process and an eligibility certification process for localities to receive grants for local programs and tools to retain agricultural lands for agricultural production;

(g) Provide analysis and recommendations as to the continued development and implementation of the farm transition program including, but not limited to, recommending:

(i) Assistance in the preparation of business plans for the transition of business interests;

(ii) Assistance in the facilitation of transfers of existing properties and agricultural operations to interested buyers; and

(iii) Research assistance on agricultural, financial, marketing, and other related transition matters;

(h) Begin the development of a farm transition program to assist in the transition of farmland and related businesses from one generation to the next, aligning the farm transition program closely with the farmland preservation effort to assure complementary functions; and

(i) Serve as a clearinghouse for incentive programs that would consolidate and disseminate information relating to conservation programs that are accessible to landowners and assist owners of agricultural lands to secure financial assistance to implement conservation easements and other projects.

NEW SECTION. Sec. 3. FARMLAND PRESERVATION TASK FORCE. (1) The farmland preservation task force is established with the following voting members:

(a) Six farmer representatives, one from each of six regions delineated by the state conservation commission at least one of whom is a commercial livestock producer, of which at least two representatives shall be under the age of forty-five, appointed by the governor from persons nominated by recognized agricultural organizations;

(b) A representative of the state conservation commission, appointed by the chair of the state conservation commission;

(c) A representative of the department of agriculture, appointed by the director;

(d) A representative of counties in eastern Washington, appointed by the Washington state association of counties;

(e) A representative of counties in western Washington, appointed by the Washington state association of counties;

(f) Two members of the senate, one from each major political caucus, appointed by the president of the senate;

(g) Two members of the house of representatives, one from each major political caucus, appointed by the speaker of the house of representatives;

(h) A representative of the office of the governor, appointed by the governor; and

(i) A representative of conservation districts, appointed by the state association of conservation districts.

(2) The following persons shall be requested to participate as nonvoting members of the farmland preservation task force:

(a) A representative of the federal natural resources conservation service with knowledge of federal agricultural land retention programs and funding sources, appointed by the state conservationist; and

(b) A person with technical expertise from the department of community, trade, and economic development, appointed by the agency's director.

(3) The task force shall meet at least twice a year. The task force shall be staffed by the state conservation commission. The chair of the task force shall be elected for a term of one year by the voting members of the task force.

(4) Nonlegislative members of the task force are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 by the state conservation commission. Legislative members of the task force are entitled to be reimbursed for travel expenses in accordance with RCW 44.04.120.

(5) This section expires January 1, 2011.

Sec. 4. RCW 89.08.530 and 2002 c 280 s 2 are each amended to read as follows:

(1) The agricultural conservation easements program is created. The state conservation commission shall manage the program and adopt rules as necessary to implement the legislature's intent.

(2) The commission shall report to the legislature on an ongoing basis regarding potential funding sources for the purchase of agricultural conservation easements under the program and recommend changes to existing funding authorized by the legislature.

(3) All funding for the program shall be deposited into the agricultural conservation easements account created in RCW 89.08.540. Expenditures from the account shall be made to local governments and private nonprofits on a match or no match required basis at the discretion of the commission. Moneys in the account may be used to purchase easements in perpetuity or to purchase or lease easements for a fixed term.

(4) Easements purchased with money from the agricultural conservation easements account run with the land.

Sec. 5. RCW 89.08.540 and 2002 c 280 s 3 are each amended to read as follows:

(1) The agricultural conservation easements account is created in the custody of the state treasurer. All receipts from legislative appropriations, other sources as directed by the legislature, and gifts, grants, or endowments from public or private sources must be deposited into the account. Expenditures from the account may be used only for the purchase of easements in perpetuity or for the purchase or lease of easements for a fixed term under the agricultural conservation easements program. Only the state conservation commission, or the executive director of the commission on the commission's behalf, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The commission is authorized to receive and expend gifts, grants, or endowments from public or private sources that are made available, in trust or otherwise, for the use and benefit of the agricultural conservation easements program.

NEW SECTION. Sec. 6. A new section is added to chapter 90.84 RCW to read as follows:

Agricultural land shall not be acquired by a governmental entity for wetland mitigation purposes through eminent domain.

NEW SECTION. Sec. 7. Section 6 of this act is necessary for the immediate preservation of the public peace, health, or

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safety, or support of the state government and its existing public institutions, and takes effect immediately.

must also be considered for participation on the habitat and recreation lands coordinating group, but may only be appointed or invited by the director.

NEW SECTION. Sec. 8. CAPTIONS NOT LAW.
Captions used in this act are not any part of the law.

(2) To ensure timely completion of the duties assigned to the habitat and recreation lands coordinating group, the director shall submit yearly progress reports to the office of financial management.

NEW SECTION. Sec. 9. Sections 1 through 3 and 8 of this act constitute a new chapter in Title 89 RCW."

(3) The habitat and recreation lands coordinating group must:

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5108.

(a) Review agency land acquisition and disposal plans and policies to help ensure statewide coordination of habitat and recreation land acquisitions and disposals;

(b) Produce an interagency, statewide biennial forecast of habitat and recreation land acquisitions and disposal plans;

(c) Establish procedures for publishing the biennial forecast of acquisition and disposal plans on web sites or other centralized, easily accessible formats;

Senator Rasmussen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5108.

(d) Develop and convene an annual forum for agencies to coordinate their near-term acquisition and disposal plans;

(e) Develop a recommended method for interagency geographic information system-based documentation of habitat and recreation lands in cooperation with other state agencies using geographic information systems;

(f) Develop recommendations for standardization of acquisition and disposal recordkeeping, including identifying a preferred process for centralizing acquisition data;

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5108 by voice vote.

(g) Develop an approach for monitoring the success of acquisitions;

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5108, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5108, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

(h) Identify and commence a dialogue with key state and federal partners to develop an inventory of potential public lands for transfer into habitat and recreation land management status;

(i) Review existing and proposed habitat conservation plans on a regular basis to foster statewide coordination and save costs.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, 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 - 46

(4) The group shall revisit the committee's and Washington wildlife and recreation program's planning requirements to determine whether coordination of state agency habitat and recreation land acquisition and disposal could be improved by modifying those requirements.

(5) The group must develop options for centralizing coordination of habitat and recreation land acquisition made with funds from federal grants. The advantages and drawbacks of the following options, at a minimum, must be developed:

Voting nay: Senators Clements, Holmquist and Honeyford - 3

SUBSTITUTE SENATE BILL NO. 5108, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

(a) Requiring that agencies provide early communication on the status of federal grant applications to the committee, the office of financial management, or directly to the legislature;

(b) Establishing a centralized pass-through agency for federal funds, where individual agencies would be the primary applicants.

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5236, with the following amendment: 5236-S AMH H3100.1

(6) This section expires July 31, 2012. Prior to January 1, 2012, the committee shall make a formal recommendation to the appropriate committees of the legislature as to whether the existence of the habitat and recreation lands coordinating group should be continued beyond July 31, 2012, and if so, whether any modifications to its enabling statute should be pursued. The committee shall involve all participants in the habitat and recreation lands coordinating group when developing the recommendations."

On page 1, line 1 of the title, after "management;" strike the remainder of the title and insert "adding a new section to chapter 79A.25 RCW; and providing an expiration date." and the same are herewith transmitted.

Strike everything after the enacting clause and insert the following:

RICHARD NAFZIGER, Chief Clerk

"NEW SECTION. Sec. 1. A new section is added to chapter 79A.25 RCW to read as follows:

MOTION

(1) The habitat and recreation lands coordinating group is established. The habitat and recreation lands coordinating group must include representatives from the committee, the state parks and recreation commission, the department of natural resources, and the Washington state department of fish and wildlife. The members of the habitat and recreation lands coordinating group must have subject matter expertise with the issues presented in this section. Representatives from appropriate stakeholder organizations and local government

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5236.

Senator Jacobsen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5236.

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The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5236 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5236, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5236, as amended by the House, 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 SENATE BILL NO. 5236, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5315, with the following amendment: 5315-S AMH ENGR H3144.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 36.28A RCW to read as follows:

(1) The Washington association of sheriffs and police chiefs shall convene a model policy work group to develop a model policy for sheriffs regarding residents, landowners, and others in lawful possession and control of land in the state during a forest fire or wildfire. The model policy must be designed in a way that, first and foremost, protects life and safety during a forest fire or wildfire. The model policy must include guidance on allowing access, when safe and appropriate, to residents, landowners, and others in lawful possession and control of land in the state during a wildfire or forest fire. The model policy must specifically address procedures to allow, when safe and appropriate, residents, landowners, and others in lawful possession and control of land in the state access to their residences and land to:

(a) Conduct fire prevention or suppression activities;
(b) Protect or retrieve any property located in their residences or on their land, including equipment, livestock, or any other belongings; or

(c) Undertake activities under both (a) and (b) of this subsection.

(2) In developing the policy under subsection (1) of this section, the association shall consult with appropriate stakeholders and government agencies.

NEW SECTION. Sec. 2. A new section is added to chapter 47.48 RCW to read as follows:

(1) Each county sheriff may, until a model policy pursuant to section 1 of this act is developed and implemented in the sheriff's county, establish and maintain a registry of persons authorized to access their land during a forest or wildfire. Upon request, the sheriff must include in the registry persons who demonstrate ownership of agriculture land or forest land within the county and who possess equipment that may be used for fire

prevention or suppression activities. Persons included in the registry must be allowed to access their property to conduct fire prevention or suppression activities despite the closure of any state highway, county road, or city street under this chapter.

(2)(a) Residents, landowners, and others in lawful possession and control of land in the state are not liable for unintentional injuries or loss suffered by persons entering upon, or passing through, their land pursuant to this section.

(b) Federal, state, and local agencies, and their employees, are not liable for any action, or failure to act, when facilitating the access described in this section.

Sec. 3. RCW 47.48.040 and 1977 ex.s. c 216 s 3 are each amended to read as follows:

Except as provided under section 2 of this act, when any state highway, county road, or city street or portion thereof shall have been closed, or when the maximum speed limit thereon shall have been reduced, for all vehicles or any class of vehicles, as by law provided, any person, firm, or corporation disregarding such closing or reduced speed limit shall be guilty of a misdemeanor, and shall in addition to any penalty for violation of the provisions of this section, be liable in any civil action instituted in the name of the state of Washington or the county or city or town having jurisdiction for any damages occasioned to such state highway, county road, or city street, as the case may be, as the result of disregarding such closing or reduced speed limit."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5315.

Senator Jacobsen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5315.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5315 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5315, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5315, as amended by the House, 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 SENATE BILL NO. 5315, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

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HOUSE BILL NO. 1054
 HOUSE BILL NO. 1069,
 SUBSTITUTE HOUSE BILL NO. 1135,
 HOUSE BILL NO. 1247,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1249,
 SUBSTITUTE HOUSE BILL NO. 1258,
 HOUSE BILL NO. 1341,
 HOUSE BILL NO. 1370,
 HOUSE BILL NO. 1412,
 HOUSE BILL NO. 1431,
 HOUSE BILL NO. 1447,
 SUBSTITUTE HOUSE BILL NO. 1642,
 HOUSE BILL NO. 1670,
 SECOND SUBSTITUTE HOUSE BILL NO. 1677,
 SUBSTITUTE HOUSE BILL NO. 1693,
 HOUSE BILL NO. 1747,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1756,
 SUBSTITUTE HOUSE BILL NO. 1826,
 HOUSE BILL NO. 1831,
 HOUSE BILL NO. 1888,
 HOUSE BILL NO. 1994,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2111,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2164,
 SUBSTITUTE HOUSE BILL NO. 2286,
 SUBSTITUTE HOUSE BILL NO. 2300,
 HOUSE JOINT MEMORIAL NO. 4016,

SIGNED BY THE PRESIDENT

The President signed:

SECOND SUBSTITUTE HOUSE BILL NO. 1009,
 SUBSTITUTE HOUSE BILL NO. 1039,
 HOUSE BILL NO. 1064,
 HOUSE BILL NO. 1084,
 HOUSE BILL NO. 1137,
 HOUSE BILL NO. 1218,
 SUBSTITUTE HOUSE BILL NO. 1338,
 ENGROSSED HOUSE BILL NO. 1379,
 HOUSE BILL NO. 1416,
 HOUSE BILL NO. 1430,
 SUBSTITUTE HOUSE BILL NO. 1456,
 HOUSE BILL NO. 1501,
 SUBSTITUTE HOUSE BILL NO. 1565,
 SUBSTITUTE HOUSE BILL NO. 1574,
 HOUSE BILL NO. 1645,
 HOUSE BILL NO. 1666,
 SUBSTITUTE HOUSE BILL NO. 1784,
 SUBSTITUTE HOUSE BILL NO. 1843,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1858,
 HOUSE BILL NO. 1939,
 SUBSTITUTE HOUSE BILL NO. 1953,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1968,
 SUBSTITUTE HOUSE BILL NO. 2130,
 HOUSE BILL NO. 2152,
 HOUSE BILL NO. 2154,
 HOUSE BILL NO. 2319,
 ENGROSSED HOUSE JOINT RESOLUTION NO. 4204,
 SUBSTITUTE HOUSE JOINT RESOLUTION NO. 4215,

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5401, with the following amendment: 5401.E AMH WARN VANS 001

On page 6, line 34, after "by" strike all material through "association" on line 35 and insert "Christmas tree growers and by established Christmas tree grower associations having members in the state" and the same are herewith transmitted.

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 RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5401.
 Senator Rasmussen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5401.

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5401 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5401, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5401, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, 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 - 47

Voting nay: Senators Holmquist and Honeyford - 2

ENGROSSED SENATE BILL NO. 5401, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5447, with the following amendment: 5447-S AMH APP H3291.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the coastal Dungeness crab fishery is one of the most valuable commercial fisheries in Washington. For example, the 2004-05 season resulted in landings of twenty-one million pounds with an estimated ex-vessel value of over thirty million dollars. The fishery represents a vital economic foundation for many coastal communities.

Since 1994, the coastal Dungeness crab fishery has faced significant pressure and has undergone many regulatory changes stemming from issues relating to the sustainability of the resource, the safety and sustainability of the fleet, interstate and federal jurisdiction questions, as well as allocation issues.

In order to further promote the sustainability of the coastal Dungeness crab resource, the coastal crab fleet, and coastal communities, the legislature intends for the department of fish and wildlife to develop a proposed coastal Dungeness buyback program that would be implemented in cooperation with the federal government upon future legislative direction.

NEW SECTION. Sec. 2. (1) The department shall develop a detailed proposed Dungeness crab-coastal fishery buyback program. The proposed program must provide for the purchase

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and permanent retirement of Dungeness crab-coastal fishery licenses. The department shall design this element of the proposed program with the goal of purchasing between eighty and one hundred Dungeness crab-coastal fishery licenses.

(2) In addition to license purchase and retirement, the proposed program may provide for the purchase or retirement of vessels designated on Dungeness crab-coastal fishery licenses.

(3) The proposed program must explore funding alternatives that involve federal funding, state funding, funding provided by Dungeness crab-coastal license holders, low-interest loans to license holders, and combinations thereof.

(4)(a) The department must include in the proposed program those elements necessary for the administration of the buyback, including the mechanisms by which Dungeness crab-coastal license holders may apply to participate in the program if it is authorized and by which the department will select licenses or vessels for purchase from among the applicants.

(b) The proposed program must include and clearly set forth any conditions that will be placed on Dungeness crab-coastal license holders participating in the program.

(5) The proposed program must be designed to have a neutral impact on Dungeness crab harvests in the state and federal waters off the coasts of Oregon and California.

(6) The proposed program must assume that participation by Dungeness crab-coastal license holders in the program would be entirely voluntary.

(7) The department shall consult with Dungeness crab-coastal license holders when designing the proposal.

(8) To assist the department in the development of the proposal, the department may contract with persons not employed by the state.

(9) By December 1, 2007, the department shall provide a report detailing the program proposal to the appropriate policy and fiscal committees of the senate and house of representatives.

(10) The proposed program developed under this section is not authorized to be implemented, and state funds are not authorized to be expended, without further specific legislative authorization.

(11) This section expires December 31, 2007."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5447.

Senator Jacobsen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5447.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5447 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5447, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5447, as amended by the House, 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 -

SUBSTITUTE SENATE BILL NO. 5447, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5467, with the following amendment: 5467-S2 AMH HS H3113.2

Strike everything after the enacting clause and insert the following:

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

(a) A developmental disability is a natural part of human life, and the presence of a developmental disability in the life of a person does not diminish the person's rights or opportunity to participate fully in the life of the local community;

(b) Investing in family members who have children and adults living in the family home preserves a valuable natural support system for the individual with a developmental disability and is also cost-effective for the state of Washington;

(c) Providing support services to families can help maintain the well-being of the family and stabilize the family unit.

(2) It is the intent of the legislature:

(a) To partner with families as care providers for children with developmental disabilities and adults who choose to live in the family home;

(b) That individual and family services be centered on the needs of the person with a developmental disability and the family;

(c) That, to the maximum extent possible, individuals and families must be given choice of services and exercise control over the resources available to them.

NEW SECTION. Sec. 2. A new section is added to chapter 71A.12 RCW to read as follows:

(1) The individual and family services program for individuals eligible to receive services under this title is established. This program replaces family support opportunities, traditional family support, and the flexible family support pilot program. The department shall transfer funding associated with these existing family support programs to the individual and family services program and shall operate the program within available funding. The services provided under the individual and family services program shall be funded by state funding without benefit of federal match.

(2) The department shall adopt rules to implement this section. The rules shall provide:

(a) That eligibility to receive services in the individual and family services program be determined solely by an assessment of individual need;

(b) For service priority levels to be developed that specify a maximum amount of dollars for each person per level per year;

(c) That the dollar caps for each service priority level be adjusted by the vendor rate increases authorized by the legislature; and

(d) That the following services be available under the program:

(i) Respite care;

(ii) Therapies;

(iii) Architectural and vehicular modifications;

(iv) Equipment and supplies;

(v) Specialized nutrition and clothing;

(vi) Excess medical costs not covered by another source;

(vii) Copays for medical and therapeutic services;

(viii) Transportation;

(ix) Training;

(x) Counseling;

(xi) Behavior management;

(xii) Parent/sibling education;

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(xiii) Recreational opportunities; and

(xiv) Community services grants.

(3) In addition to services provided for the service priority levels under subsections (1) and (2) of this section, the department shall provide for:

(a) One-time exceptional needs and emergency needs for individuals and families not receiving individual and family services annual grants to assist individuals and families who experience a short-term crisis; and

(b) Respite services based on the department's assessment for a parent who provides personal care in the home to his or her adult son or daughter with developmental disabilities.

(4) If a person has more complex needs, a family is experiencing a more prolonged crisis, or it is determined a person needs additional services, the department shall assess the individual to determine if placement in a waiver program would be appropriate.

NEW SECTION. Sec. 3. This act may be known and cited as the Lance Morehouse, Jr. memorial individual and family services act.

NEW SECTION. Sec. 4. Nothing in this act shall be construed to create an entitlement to services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable, the child or family is not eligible for such services, or sufficient funding has not been appropriated for this program." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5467.

Senators Keiser and Delvin spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5467.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5467 by voice vote.

MOTION

On motion of Senator Marr, Senators Hargrove and McAuliffe were excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5467, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5467, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, 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

Excused: Senator Hargrove - 1

SECOND SUBSTITUTE SENATE BILL NO. 5467, as amended by the House, having received the constitutional

majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Mr. President. I want to point out some history. One-hundred forty-some years ago, Lee had just surrendered and President Lincoln had given a speech about reconstruction of the South and there was those who took exception to it and it's exactly one-hundred forty-two years ago today, at ten o'clock at night, in Fords Theater that Lincoln was shot and died the following day. Thank you."

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5726, with the following amendment: 5726-S.E AMH H3265.E

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** This act may be known and cited as the insurance fair conduct act.

Sec. 2. RCW 48.30.010 and 1997 c 409 s 107 are each amended to read as follows:

(1) No person engaged in the business of insurance shall engage in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of such business as such methods, acts, or practices are defined pursuant to subsection (2) of this section.

(2) In addition to such unfair methods and unfair or deceptive acts or practices as are expressly defined and prohibited by this code, the commissioner may from time to time by regulation promulgated pursuant to chapter 34.05 RCW, define other methods of competition and other acts and practices in the conduct of such business reasonably found by the commissioner to be unfair or deceptive after a review of all comments received during the notice and comment rule-making period.

(3)(a) In defining other methods of competition and other acts and practices in the conduct of such business to be unfair or deceptive, and after reviewing all comments and documents received during the notice and comment rule-making period, the commissioner shall identify his or her reasons for defining the method of competition or other act or practice in the conduct of insurance to be unfair or deceptive and shall include a statement outlining these reasons as part of the adopted rule.

(b) The commissioner shall include a detailed description of facts upon which he or she relied and of facts upon which he or she failed to rely, in defining the method of competition or other act or practice in the conduct of insurance to be unfair or deceptive, in the concise explanatory statement prepared under RCW 34.05.325(6).

(c) Upon appeal the superior court shall review the findings of fact upon which the regulation is based de novo on the record.

(4) No such regulation shall be made effective prior to the expiration of thirty days after the date of the order by which it is promulgated.

(5) If the commissioner has cause to believe that any person is violating any such regulation, the commissioner may order such person to cease and desist therefrom. The commissioner shall deliver such order to such person direct or mail it to the person by registered mail with return receipt requested. If the person violates the order after expiration of ten days after the cease and desist order has been received by him or her, he or she

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may be fined by the commissioner a sum not to exceed two hundred and fifty dollars for each violation committed thereafter.

(6) If any such regulation is violated, the commissioner may take such other or additional action as is permitted under the insurance code for violation of a regulation.

(7) An insurer engaged in the business of insurance may not unreasonably deny a claim for coverage or payment of benefits to any first party claimant. "First party claimant" has the same meaning as in section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 48.30 RCW to read as follows:

(1) Any first party claimant to a policy of insurance who is unreasonably denied a claim for coverage or payment of benefits by an insurer may bring an action in the superior court of this state to recover the actual damages sustained, together with the costs of the action, including reasonable attorneys' fees and litigation costs, as set forth in subsection (3) of this section.

(2) The superior court may, after finding that an insurer has acted unreasonably in denying a claim for coverage or payment of benefits or has violated a rule in subsection (5) of this section, increase the total award of damages to an amount not to exceed three times the actual damages.

(3) The superior court shall, after a finding of unreasonable denial of a claim for coverage or payment of benefits, or after a finding of a violation of a rule in subsection (5) of this section, award reasonable attorneys' fees and actual and statutory litigation costs, including expert witness fees, to the first party claimant of an insurance contract who is the prevailing party in such an action.

(4) "First party claimant" means an individual, corporation, association, partnership, or other legal entity asserting a right to payment as a covered person under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by such a policy or contract.

(5) A violation of any of the following is a violation for the purposes of subsections (2) and (3) of this section:

(a) WAC 284-30-330, captioned "specific unfair claims settlement practices defined";

(b) WAC 284-30-350, captioned "misrepresentation of policy provisions";

(c) WAC 284-30-360, captioned "failure to acknowledge pertinent communications";

(d) WAC 284-30-370, captioned "standards for prompt investigation of claims";

(e) WAC 284-30-380, captioned "standards for prompt, fair and equitable settlements applicable to all insurers"; or

(f) An unfair claims settlement practice rule adopted under RCW 48.30.010 by the insurance commissioner intending to implement this section. The rule must be codified in chapter 284-30 of the Washington Administrative Code.

(6) This section does not limit a court's existing ability to make any other determination regarding an action for an unfair or deceptive practice of an insurer or provide for any other remedy that is available at law.

(7) This section does not apply to a health plan offered by a health carrier. "Health plan" has the same meaning as in RCW 48.43.005. "Health carrier" has the same meaning as in RCW 48.43.005.

(8)(a) Twenty days prior to filing an action based on this section, a first party claimant must provide written notice of the basis for the cause of action to the insurer and office of the insurance commissioner. Notice may be provided by regular mail, registered mail, or certified mail with return receipt requested. Proof of notice by mail may be made in the same manner as prescribed by court rule or statute for proof of service by mail. The insurer and insurance commissioner are deemed to have received notice three business days after the notice is mailed.

(b) If the insurer fails to resolve the basis for the action within the twenty-day period after the written notice by the first party claimant, the first party claimant may bring the action without any further notice.

(c) The first party claimant may bring an action after the required period of time in (a) of this subsection has elapsed.

(d) If a written notice of claim is served under (a) of this subsection within the time prescribed for the filing of an action under this section, the statute of limitations for the action is tolled during the twenty-day period of time in (a) of this subsection."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Weinstein moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5726.

Senator Weinstein spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Weinstein that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5726.

The motion by Senator Weinstein carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5726 by voice vote.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5726, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5726, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 31

Voting nay: Senators Brandland, Carrell, Clements, Delvin, Haugen, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 18

ENGROSSED SUBSTITUTE SENATE BILL NO. 5726, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5826, with the following amendment: 5826-S AMH IFCP H3093.2

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.182.170 and 2005 c 342 s 1 are each amended to read as follows:

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(1) A ~~(victim of identity theft who has submitted a valid police report to a consumer reporting agency)~~ consumer, who is a resident of this state, may elect to place a security freeze on his or her credit report by making a request in writing by certified mail to a consumer reporting agency. "Security freeze" means a ~~(notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer))~~ prohibition, consistent with this section, on a consumer reporting agency's furnishing of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(2) For purposes of this section and RCW 19.182.180 through 19.182.210~~((a))~~;

(a) "Victim of identity theft" means:

~~(a) A victim of identity theft as defined in RCW 9.35.020; or~~
~~(b) A person who has been notified by an agency, person, or business that owns or licenses computerized data of a breach in a computerized data system which has resulted in the acquisition of that person's unencrypted personal information by an unauthorized person or entity))~~ a person who has a police report evidencing their claim to be a victim of a violation of RCW 9.35.020 and which report will be produced to a consumer reporting agency, upon such consumer reporting agency's request.

(b) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

(c) "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m. Pacific Time.

(3) A consumer reporting agency shall place a security freeze on a consumer's credit report no later than five business days after receiving a written request from the consumer and payment of the fee required by the consumer reporting agency under subsection (13) of this section.

(4) The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within ten business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit report for a specific party or period of time.

(5) If the consumer wishes to allow his or her credit report to be accessed for a specific ~~((party or))~~ period of time while a freeze is in place, he or she shall contact the consumer reporting agency, request that the freeze be temporarily lifted, and provide the following:

(a) Proper identification, which means that information generally deemed sufficient to identify a person. Only if the consumer is unable to sufficiently identify himself or herself, may a consumer reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his or her identity;

(b) The unique personal identification number or password provided by the ~~((credit))~~ consumer reporting agency under subsection (4) of this section; ~~((and))~~

(c) The proper information regarding ~~((the third party who is to receive the credit report or))~~ the time period for which the report is available to users of the credit report; and

(d) Payment of the fee required by the consumer reporting agency under subsection (13) of this section.

(6) A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report under subsection (5) of this section~~((c))~~ shall comply with the request ~~((no later than))~~ within:

(a) Three business days ~~((after))~~ of receiving the request by mail; or

(b) Fifteen minutes of receiving the request from the consumer through the electronic contact method chosen by the consumer reporting agency in accordance with subsection (8) of this section, if the request:

(i) Is received during normal business hours; and

(ii) Includes the consumer's proper identification and correct personal identification number or password.

(7) A consumer reporting agency is not required to remove a security freeze within the time provided in subsection (6)(b) of this section if:

(a) The consumer fails to meet the requirements of subsection (5) of this section; or

(b) The consumer reporting agency's ability to remove the security freeze within fifteen minutes is prevented by:

(i) An act of God, including fire, earthquakes, hurricanes, storms, or similar natural disasters or phenomena;

(ii) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes, or disputes disrupting operations, or similar occurrences;

(iii) An interruption in operations, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruptions;

(iv) Governmental action, including emergency orders or regulations, judicial or law enforcement action, or similar directives;

(v) Regularly scheduled maintenance of, or updates to, the consumer reporting agency's systems outside of normal business hours;

(vi) Commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled; or

(vii) Receipt of a removal request outside of normal business hours.

(8) A consumer reporting agency may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report under subsection (5) of this section in an expedited manner.

~~((8))~~ (9) A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following cases:

(a) Upon consumer request, under subsection (5) or ~~((11))~~ (12) of this section; or

(b) When the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. When a consumer reporting agency intends to remove a freeze upon a consumer's credit report under this subsection, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

~~((9))~~ (10) When a third party requests access to a consumer credit report on which a security freeze is in effect, and this request is in connection with an application for credit or any other use, and the consumer does not allow his or her credit report to be accessed for that ~~((specific party or))~~ period of time, the third party may treat the application as incomplete.

~~((10))~~ (11) When a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific ~~((party or))~~ period of time while the freeze is in place.

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~~((H))~~ (12) A security freeze remains in place until the consumer requests that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer, who provides ~~((both))~~ all of the following:

(a) Proper identification, as defined in subsection (5)(a) of this section; ~~((and))~~

(b) The unique personal identification number or password provided by the consumer reporting agency under subsection (4) of this section; and

(c) Payment of the fee required by the consumer reporting agency under subsection (13) of this section.

~~((H2))~~ (13)(a) Except as provided in (b) of this subsection, a consumer reporting agency may charge a fee of no more than ten dollars to a consumer for placement of each freeze, temporary lift of the freeze, or removal of the freeze.

(b) A consumer reporting agency may not charge a fee to place a security freeze for a victim of identity theft or for a consumer, who is sixty-five years old or older.

(14) This section does not apply to the use of a consumer credit report by any of the following:

(a) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this subsection, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

~~(A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (5) of this section for purposes of facilitating the extension of credit or other permissible use;~~

~~((e))~~ Any federal, state, or local entity, including a law enforcement agency, court, or their agents or assigns;

~~((d) A private collection agency))~~ (c) Any person acting under a court order, warrant, or subpoena;

~~((e))~~ (d) A child support agency acting under Title IV-D of the social security act (42 U.S.C. et seq.);

~~((f))~~ (e) The department of social and health services acting to fulfill any of its statutory responsibilities;

~~((g))~~ (f) The internal revenue service acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;

~~((h))~~ (g) The use of credit information for the purposes of prescreening as provided for by the federal fair credit reporting act;

~~((i))~~ (h) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed; ~~((and~~

~~((j))~~ (i) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request; and

(j) A mortgage broker or loan originator required to be licensed under chapter 19.146 RCW.

(15) Liability may not result to the consumer reporting agency if through inadvertence or mistake the consumer reporting agency releases credit report information to a person or entity purporting to be a mortgage broker or loan originator under subsection (14) of this section that is, in fact, not a mortgage broker or loan originator.

(16) The consumer's request for a security freeze does not prohibit the consumer reporting agency from disclosing the consumer's credit report for other than credit-related purposes.

(17) A violation of subsection (6) of this section does not provide a private cause of action under RCW 19.86.090. A violation of subsection (6) of this section shall be enforced exclusively by the attorney general. A violation of subsection (6) of this section is subject to all other remedies and penalties available under this chapter.

NEW SECTION. Sec. 2. This act takes effect September 1, 2008." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Berkey moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5826.

Senators Berkey and Benton spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Berkey that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5826.

The motion by Senator Berkey carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5826 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5826, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5826, as amended by the House, 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 SENATE BILL NO. 5826, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Zarelli: "Thank you Mr. President. I just wanted to share with the body today that tomorrow is Yom HaShoah and if you're Jewish you probably know more about tomorrow than most of us which is a Jewish day of remembrance of the Holocaust. Mr. President, I just wanted to make sure that all of us are aware of that. I think it's very important that all of us, whether we are of Jewish faith or not, remember that because history is a very important thing when it comes understanding the future. So, I just wanted to remind the body of that day as Jews around the world will be remembering those series of very horrific events. Something that we all gathered together in this country to put an end to years ago-those in the greatest generation. I think it's worthy of remembrance by all of us. Thank you."

PERSONAL PRIVILEGE

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Senator Kline: "Thank you Mr. President, I just want to thank the good member for pointing that out and much appreciated. Thank you."

PERSONAL PRIVILEGE

Senator Weinstein: "I, too, would like to thank the good Senator for pointing that out. I would also like to take this time to honor Senator McCaslin for his service in World War II in trying to put an end to Nazi tyranny. Thank you very much, Senator McCaslin."

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5923, with the following amendment: 5923-S2.E AMH ENGR H3123.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.43.400 and 2005 c 464 s 5 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise:

(a) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under RCW 77.08.010 (49) through (54), aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(b) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

(2) The aquatic invasive species enforcement account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

~~((2))~~ (3) Funds in the aquatic invasive species enforcement account may be appropriated to the Washington state patrol and the department of fish and wildlife to develop an aquatic invasive species enforcement program for recreational and commercial watercraft, which includes equipment used to transport the watercraft and auxiliary equipment such as attached or detached outboard motors. Funds must be expended as follows:

(a) By the Washington state patrol, to inspect recreational and commercial watercraft that are required to stop at port of entry weigh stations managed by the Washington state patrol. The watercraft must be inspected for the presence of (~~zebra mussels and other~~) aquatic invasive species; and

(b) By the department of fish and wildlife to:

(i) Establish random check stations, (~~in conjunction with the department of fish and wildlife~~) to inspect recreational and commercial watercraft (~~in areas of high boating activity~~) as provided for in RCW 77.12.879(3);

(ii) Inspect or delegate inspection of recreational and commercial watercraft. If the department conducts the inspection, there will be no cost to the person requesting the inspection;

(iii) Provide training to all department employees that are deployed in the field to inspect recreational and commercial watercraft; and

(iv) Provide an inspection receipt verifying that the watercraft is not contaminated after the watercraft has been inspected at a check station or has been inspected at the request of the owner of the recreational or commercial watercraft. The inspection receipt is valid until the watercraft is used again.

~~((2))~~ (4) The Washington state patrol and the department of fish and wildlife shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007.

Sec. 2. RCW 77.08.010 and 2005 c 104 s 1 are each amended to read as follows:

As used in this title or rules adopted under this title, unless the context clearly requires otherwise:

(1) "Director" means the director of fish and wildlife.

(2) "Department" means the department of fish and wildlife.

(3) "Commission" means the state fish and wildlife commission.

(4) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(5) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(6) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

(8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(9) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

(10) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(11) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(12) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(13) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(14) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(15) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

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(16) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(17) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species *Rana catesbeiana* (bullfrog). The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

(18) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(19) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(20) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(21) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(23) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(24) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(25) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(26) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(27) "Person of disability" means a permanently disabled person who is not ambulatory without the assistance of a wheelchair, crutches, or similar devices.

(28) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(29) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(30) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

(31) "Senior" means a person seventy years old or older.

(32) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

(33) "Saltwater" means those marine waters seaward of river mouths.

(34) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

(35) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(36) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(37) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(38) "Resident" means:

(a) A person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state; and

(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.

(39) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(40) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(41) "Commercial" means related to or connected with buying, selling, or bartering.

(42) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

(43) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

(44) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(45) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

(46) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

(47) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

(48) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

(49) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

(50) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

(51) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

(52) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

(53) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

(54) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(55) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

(56) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (49) through (54) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(57) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

Sec. 3. RCW 77.12.879 and 2005 c 464 s 3 are each amended to read as follows:

(1) The aquatic invasive species prevention account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in

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this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species prevention account may be appropriated to the department to develop an aquatic invasive species prevention program for recreational and commercial watercraft. Funds must be expended as follows:

(a) To inspect ~~recreational and commercial watercraft (watercraft trailers, and outboard motors at selected boat launching sites)~~;

(b) To educate general law enforcement officers on how to enforce state laws relating to preventing the spread of aquatic invasive species;

(c) To evaluate and survey the risk posed by ~~((marine)) recreational and commercial watercraft~~ in spreading aquatic invasive species into Washington state waters;

(d) To evaluate the risk posed by float planes in spreading aquatic invasive species into Washington state waters; and

(e) To implement an aquatic invasive species early detection and rapid response plan. The plan must address the treatment and immediate response to the introduction to Washington waters of aquatic invasive species. Agency and public review of the plan must be conducted under chapter 43.21C RCW, the state environmental policy act. If the implementation measures or actions would have a probable significant adverse environmental impact, a detailed statement under chapter 43.21C RCW must be prepared on the plan.

(3) Funds in the aquatic invasive species enforcement account created in RCW 43.43.400 may be appropriated to the department and Washington state patrol to develop an aquatic invasive species enforcement program for recreational and commercial watercraft. The department shall provide training to Washington state patrol employees working at port of entry weigh stations on how to inspect recreational and commercial watercraft for the presence of ((zebra mussels and other)) aquatic invasive species. The department ((shall also cooperatively work with the Washington state patrol to set up random check stations to inspect watercraft at areas of high boating activity)) is authorized to require persons transporting recreational and commercial watercraft to stop at check stations. Check stations must be plainly marked by signs, operated by at least one uniformed fish and wildlife officer, and operated in a safe manner. Any person stopped at a check station who possesses a recreational or commercial watercraft that is contaminated with aquatic invasive species is exempt from the criminal penalties found in RCW 77.15.253 and 77.15.290, and forfeiture under RCW 77.15.070, if that person complies with all department directives for the proper decontamination of the watercraft and equipment.

(4) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007.

NEW SECTION. Sec. 4. A new section is added to chapter 77.12 RCW to read as follows:

(1) The department shall adopt rules governing how and when the owners of recreational and commercial watercraft may request an inspection of the watercraft for the presence of aquatic invasive species. The department may coordinate with other states on inspection requirements and may determine when other state inspections meet Washington standards.

(2) The department shall develop and post signs warning vessel owners of the threat of aquatic invasive species, the penalties associated with introduction of an aquatic invasive species, and the contact information for obtaining a free inspection. The signs should provide enough information for the public to discern whether the vessel has been operated in an area that would warrant the need for an inspection. The department shall consult with the state patrol and the department of transportation regarding proper placement and authorization for sign posting.

(3) All port districts, privately or publicly owned marinas, state parks, and all state agencies or political subdivisions that own or lease a boat launch must display a sign provided by the department as described under subsection (2) of this section.

Signs must be posted in a location near the boat launch to provide maximum visibility to the public.

(4) The department must coordinate with the Washington state parks and recreation commission to include such information in all boating publications provided to the public. The department shall also include the information on the department's internet site.

Sec. 5. RCW 77.15.253 and 2002 c 281 s 4 are each amended to read as follows:

(1) A person is guilty of unlawful use of a prohibited aquatic animal species if he or she possesses, imports, purchases, sells, propagates, transports, or releases a prohibited aquatic animal species within the state, except as provided in this section.

(2) Unless otherwise prohibited by law, a person may:

(a) Transport prohibited aquatic animal species to the department, or to another destination designated by the director, in a manner designated by the director, for purposes of identifying a species or reporting the presence of a species;

(b) Possess a prohibited aquatic animal species if he or she is in the process of removing it from watercraft or equipment in a manner specified by the department;

(c) Release a prohibited aquatic animal species if the species was caught while fishing and it is being immediately returned to the water from which it came; or

(d) Possess, transport, or release a prohibited aquatic animal species as the commission may otherwise prescribe.

(3) Unlawful use of a prohibited aquatic animal species is a gross misdemeanor. A subsequent violation of subsection (1) of this section within five years is a class C felony.

(4) A person is guilty of unlawful release of a regulated aquatic animal species if he or she releases a regulated aquatic animal species into state waters, unless allowed by the commission.

(5) Unlawful release of a regulated aquatic animal species is a gross misdemeanor.

(6) A person is guilty of unlawful release of an unlisted aquatic animal species if he or she releases an unlisted aquatic animal species into state waters without requesting a commission designation under RCW 77.12.020.

(7) Unlawful release of an unlisted aquatic animal species is a gross misdemeanor.

(8) This section does not apply to:

(a) The transportation or release of organisms in ballast water;

(b) A person stopped at an aquatic invasive species check station who possesses a recreational or commercial watercraft that is contaminated with an aquatic invasive species, if that person complies with all department directives for the proper decontamination of the watercraft and equipment; or

(c) A person who has voluntarily submitted a recreational or commercial watercraft for inspection by the department and has received a receipt verifying that the watercraft has not been contaminated since its last use.

Sec. 6. RCW 77.15.290 and 2002 c 281 s 7 are each amended to read as follows:

(1) A person is guilty of unlawful transportation of fish or wildlife in the second degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any rule of the commission or the director governing the transportation or movement of fish, shellfish, or wildlife and the transportation does not involve big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife having a value greater than two hundred fifty dollars; or

(b) Possesses but fails to affix or notch a big game transport tag as required by rule of the commission or director.

(2) A person is guilty of unlawful transportation of fish or wildlife in the first degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any rule of the commission or the director governing the transportation or movement of fish, shellfish, or wildlife and the transportation involves big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife with a value of two hundred fifty dollars or more; or

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(b) Knowingly transports shellfish, shellstock, or equipment used in commercial culturing, taking, handling, or processing shellfish without a permit required by authority of this title.

(3)(a) Unlawful transportation of fish or wildlife in the second degree is a misdemeanor.

(b) Unlawful transportation of fish or wildlife in the first degree is a gross misdemeanor.

(4) A person is guilty of unlawful transport of aquatic plants if the person transports aquatic plants on any state or public road, including forest roads, except as provided in this section.

(5) Unless otherwise prohibited by law, a person may transport aquatic plants:

(a) To the department, or to another destination designated by the director, in a manner designated by the department, for purposes of identifying a species or reporting the presence of a species;

(b) When legally obtained for aquarium use, wetland or lakeshore restoration, or ornamental purposes;

(c) When transporting a commercial aquatic plant harvester to a suitable location for purposes of removing aquatic plants;

(d) In a manner that prevents their unintentional dispersal, to a suitable location for disposal, research, or educational purposes; or

(e) As the commission may otherwise prescribe.

(6) Unlawful transport of aquatic plants is a misdemeanor.

(7) This section does not apply to: (a) Any person stopped at an aquatic invasive species check station who possesses a recreational or commercial watercraft that is contaminated with an aquatic invasive species if that person complies with all department directives for the proper decontamination of the watercraft and equipment; or (b) any person who has voluntarily submitted a recreational or commercial watercraft for inspection by the department or its designee and has received a receipt verifying that the watercraft has not been contaminated since its last use.

NEW SECTION. Sec. 7. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of unlawfully avoiding aquatic invasive species check stations if the person fails to:

(a) Obey check station signs; or

(b) Stop and report at a check station if directed to do so by a uniformed fish and wildlife officer.

(2) Unlawfully avoiding aquatic invasive species check stations is a gross misdemeanor.

Sec. 8. RCW 77.120.010 and 2000 c 108 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) "Ballast tank" means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(2) "Ballast water" means any water and matter taken on board a vessel to control or maintain trim, draft, stability, or stresses of the vessel, without regard to the manner in which it is carried.

(3) "Empty/refill exchange" means to pump out, until the tank is empty or as close to empty as the master or operator determines is safe, the ballast water taken on in ports, estuarine, or territorial waters, and then refilling the tank with open sea waters.

(4) "Exchange" means to replace the water in a ballast tank using either flow through exchange, empty/refill exchange, or other exchange methodology recommended or required by the United States coast guard.

(5) "Flow through exchange" means to flush out ballast water by pumping in midocean water at the bottom of the tank and continuously overflowing the tank from the top until three full volumes of water have been changed to minimize the number of original organisms remaining in the tank.

(6) "Nonindigenous species" means any species or other viable biological material that enters an ecosystem beyond its natural range.

(7) "Open sea exchange" means an exchange that occurs fifty or more nautical miles offshore. If the United States coast guard requires a vessel to conduct an exchange further offshore,

then that distance is the required distance for purposes of compliance with this chapter.

(8) "Recognized marine trade association" means those trade associations in Washington state that promote improved ballast water management practices by educating their members on the provisions of this chapter, participating in regional ballast water coordination through the Pacific ballast water group, assisting the department in the collection of ballast water exchange forms, and the monitoring of ballast water. This includes members of the Puget Sound marine committee for Puget Sound and the Columbia river steamship operators association for the Columbia river.

(9) "Sediments" means any matter settled out of ballast water within a vessel.

(10) "Untreated ballast water" includes exchanged or unexchanged ballast water that has not undergone treatment.

(11) "Vessel" means a ~~((self-propelled))~~ ship ~~((in commerce)), boat, barge, or other floating craft of three hundred gross tons or more, United States and foreign, carrying, or capable of carrying, ballast water into the coastal waters of the state after operating outside of the coastal waters of the state, except those vessels described in RCW 77.120.020.~~

(12) "Voyage" means any transit by a vessel destined for any Washington port.

(13) "Waters of the state" means any surface waters, including internal waters contiguous to state shorelines within the boundaries of the state.

Sec. 9. RCW 77.120.020 and 2000 c 108 s 3 are each amended to read as follows:

(1) This chapter applies to all vessels ~~((carrying ballast water))~~ transiting into the waters of the state from a voyage, except:

(a) A vessel of the United States department of defense or United States coast guard subject to the requirements of section 1103 of the national invasive species act of 1996, or any vessel of the armed forces, as defined in 33 U.S.C. Sec. 1322(a)(14), that is subject to the uniform national discharge standards for vessels of the armed forces under 33 U.S.C. Sec. 1322(n);

(b) A vessel ~~((+))~~ that discharges ballast water or sediments only at the location where the ballast water or sediments originated, if the ballast water or sediments do not mix with ballast water or sediments from areas other than open sea waters ~~((; or (ii) that does not discharge ballast water in Washington waters)); and~~

(c) A vessel in innocent passage, merely traversing the ~~((internal waters of Washington in the Strait of Juan de Fuca, bound for a port in Canada,))~~ territorial sea of the United States and not entering or departing a United States port, ~~((or a vessel in innocent passage, which is a vessel merely traversing the territorial sea of the United States and not entering or departing a United States port,))~~ or not navigating the internal waters of the United States ~~((; and~~

~~((d) A crude oil tanker that does not exchange or discharge ballast water into the waters of the state), and that does not discharge ballast water into the waters of the state.~~

(2) This chapter does not authorize the discharge of oil or noxious liquid substances in a manner prohibited by state, federal, or international laws or regulations. Ballast water containing oil, noxious liquid substances, or any other pollutant shall be discharged in accordance with the applicable requirements.

(3) The master or operator in charge of a vessel is responsible for the safety of the vessel, its crew, and its passengers. Nothing in this chapter relieves the master or operator in charge of a vessel of the responsibility for ensuring the safety and stability of the vessel or the safety of the crew and passengers.

Sec. 10. RCW 77.120.030 and 2004 c 227 s 3 are each amended to read as follows:

(1) The owner or operator in charge of any vessel covered by this chapter is required to ensure that the vessel under their ownership or control does not discharge ballast water into the waters of the state except as authorized by this section.

~~((+)) Discharge into waters of the state is authorized if the vessel has conducted an open sea exchange of ballast water. A~~

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vessel is exempt from this requirement if the vessel's master reasonably determines that such a ballast water exchange operation will threaten the safety of the vessel or the vessel's crew, or is not feasible due to vessel design limitations or equipment failure. If a vessel relies on this exemption, then it may discharge ballast water into waters of the state, subject to any requirements of treatment under subsection (2) of this section and subject to RCW 77.120.040-))

(2) ~~((After July 1, 2007,))~~ Discharge of ballast water into waters of the state is authorized only if there has been an open sea exchange, or if the vessel has treated its ballast water to meet standards set by the department consistent with applicable state and federal laws. ~~((When weather or extraordinary circumstances make access to treatment unsafe to the vessel or crew, the master of a vessel may delay compliance with any treatment required under this subsection until it is safe to complete the treatment.~~

~~(3) Masters, owners, operators, or persons-in-charge shall submit to the department an interim ballast water management report by July 1, 2006, in the form and manner prescribed by the department. The report shall describe actions needed to implement the ballast water requirements in subsection (2) of this section, including treatment methods applicable to the class of the vessel. Reports may include a statement that there are no treatment methods applicable to the vessel for which the report is being submitted.~~

~~(4) The ballast water work group created in section 1, chapter 282, Laws of 2002 shall develop recommendations for the interim ballast water management report. The recommendations must include, but are not limited to:~~

~~(a) Actions that the vessel owner or operator will take to implement the ballast water requirements in subsection (2) of this section, including treatment methods applicable to the class of the vessel;~~

~~(b) Necessary plan elements when there are not treatment methods applicable to the vessel for which the report is being submitted, or which would meet the requirements of this chapter; and~~

~~(c) The method, form, and content of reporting to be used for such reports-))~~

(3) The department, in consultation with the ballast water work group, or similar collaborative forum, shall adopt by rule standards for the discharge of ballast water into the waters of the state and their implementation timelines. The standards are intended to ensure that the discharge of ballast water poses minimal risk of introducing nonindigenous species. In developing these standards, the department shall consider the extent to which the requirement is technologically and practically feasible. Where practical and appropriate, the standards must be compatible with standards set by the United States coast guard, the federal clean water act (33 U.S.C. Sec. 1251-1387), or the international maritime organization.

(4) The master, operator, or person in charge of a vessel is not required to conduct an open sea exchange or treatment of ballast water if the master, operator, or person in charge of a vessel determines that the operation would threaten the safety of the vessel, its crew, or its passengers, because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions. A master, operator, or person in charge of a vessel who relies on this exemption must file documentation defined by the department, subject to: (a) Payment of a fee not to exceed five thousand dollars; (b) discharging only the minimal amount of ballast water operationally necessary; (c) ensuring that ballast water records accurately reflect any reasons for not complying with the mandatory requirements; and (d) any other requirements identified by the department by rule as provided in subsections (3) and (6) of this section.

(5) For treatment technologies requiring shipyard modification ((that cannot reasonably be performed prior to July 1, 2007, the department shall provide the vessel owner or operator with an extension to the first scheduled drydock or shipyard period following July 1, 2007)), the department may enter into a compliance plan with the vessel owner. The compliance plan must include a timeline consistent with

drydock and shipyard schedules for completion of the modification. The department shall adopt rules for compliance plans under this subsection.

(6) For an exemption claimed in subsection (4) of this section, the department shall adopt rules for defining exemption conditions, requirements, compliance plans, or alternative ballast water management strategies to meet the intent of this section.

~~((6))~~ (7) The department shall make every effort to align ballast water standards with adopted international and federal standards while ensuring that the goals of this chapter are met.

~~((7))~~ (8) The requirements of this section do not apply to a vessel discharging ballast water or sediments that originated solely within the waters of Washington state, the Columbia river system, or the internal waters of British Columbia south of latitude fifty degrees north, including the waters of the Straits of Georgia and Juan de Fuca.

~~((8))~~ (9) Open sea exchange is an exchange that occurs fifty or more nautical miles offshore. If the United States coast guard requires a vessel to conduct an exchange further offshore, then that distance is the required distance for purposes of compliance with this chapter.

Sec. 11. 2004 c 227 s 2 (uncodified) is amended to read as follows:

(1) ((The director of the department of fish and wildlife must establish the)) A ballast water work group is created to assist the department in the implementation of this chapter. The director shall make appointments to the work group from the names provided by the entities identified in this section.

(2) The ballast water work group consists of the following individuals:

(a) One staff person from the governor's executive policy office. This person must act as chair of the ballast water work group;

(b) Two representatives from the ((Puget Sound steamship operators)) Pacific merchant shipping association;

(c) Two representatives from the Columbia river steamship operators;

(d) Three representatives from the Washington public ports, one of whom must be a marine engineer;

(e) Two representatives from the petroleum transportation industry;

(f) One representative from the Puget Sound water quality action team;

(g) Two representatives from the environmental community;

(h) One representative of the shellfish industry;

(i) One representative of the tribes;

(j) One representative of maritime labor; ((and))

(k) One representative from the department ((of fish and wildlife));

(l) One representative from the department of ecology;

(m) One representative from the cruise ship industry; and

(n) One representative from the department of natural resources.

(3) The ballast water work group must ((study, and provide a report to the legislature by December 15, 2006, the following issues)) begin operation immediately upon the effective date of this section. The Puget Sound action team or its successor agency must provide staff for the ballast water work group from existing personnel within the action team. The ballast water work group must:

(a) ((All issues relating to ballast water technology, including exchange and treatment methods, management plans, the associated costs, and the availability of feasible and proven ballast water treatment technologies that could be cost-effectively installed on vessels that typically call on Washington ports;

(b) The services needed by the industry and the state to protect the marine environment, including penalties and enforcement;

(c) The costs associated with, and possible funding methods for, implementing the ballast water program;

(d) Consistency with federal and international standards, and identification of gaps between those standards, and the need for additional measures, if any, to meet the goals of this chapter;

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~~—(c) Describe how the costs of treatment required as of July 1, 2007, will be substantially equivalent among ports where treatment is required;~~

~~—(f) Describe how the states of Washington and Oregon are coordinating their efforts for ballast water management in the Columbia river system; and~~

~~—(g) Describe how the states of Washington, Oregon, and California and the province of British Columbia are coordinating their efforts for ballast water management on the west coast.~~

~~—(4) The ballast water work group must begin operation immediately upon the effective date of this section. The Puget Sound water quality action team must provide staff for the ballast water work group. The staff must come from existing personnel within the team.) Provide a report to the legislature by July 1, 2009, on the progress of the work group on the tasks listed in this section, and report on compliance with this act, and recommendations for improvements, if any, to the ballast water program;~~

~~(b) Work with the state of Oregon to develop a consistent, coordinated, and enforceable ballast water management program for the Columbia river that is acceptable to both states;~~

~~(c) Advise the department on potential strategies to establish and maintain an inventory of introduced nonindigenous plants and animals in state waters in and adjacent to ports, harbors, oil transfer facilities, grain elevators, and other ship-berthing facilities and evaluate the effectiveness of the program and a program to assess vessel-specific risks;~~

~~(d) Help the department review the needs of the ballast water program, including research investments, and identify unmet needs, and work through the Puget Sound action team's and the department's internal budget development process to secure needed funds;~~

~~(e) Help the department develop and align the state program with national and regional ballast water management programs;~~

~~(f) Assist the department by developing a workable technical and financial assistance program to support the shipping industry to comply with state ballast water laws and rules;~~

~~(g) Work with the United States coast guard and the department of ecology to improve coordination and integration of vessel inspection procedures among agencies that board and inspect vessels and identify ways to minimize apparent duplication of effort, work more effectively with vessel masters and crew, and recommend changes to state law to streamline the program, if needed;~~

~~(h) Outline funding, policy, and program recommendations to support the state's management program;~~

~~(i) Coordinate, in association with the departments of fish and wildlife, ecology, and natural resources, the Puget Sound action team, the Washington invasive species council, and other interested parties, the development of a management approach for nonballast water ship vectors as a source of nonindigenous species such as ship hull fouling, sea chests and equipment, and vessels equipped with ballast tanks that carry no ballast onboard;~~

~~(j) Review and provide comment on proposed federal legislation, international and regional programs, and other policy arenas;~~

~~(k) Harmonize the state ballast water program with western coastal states, British Columbia, and Canada;~~

~~(l) Work with the department's science advisory panel to develop a science research plan and estimated costs to answer key research and management questions;~~

~~(m) Provide recommendations and technical information to assist the department in determining if and when it is necessary or advisable to adjust rules and guidance for the ballast water management program to achieve resource goals and objectives;~~

~~(n) Coordinate, in association with the department, the departments of ecology and natural resources, the Puget Sound action team, the Washington invasive species council, and other interested parties, recommendations for a management approach for treatment of unexchanged ballast water when vessels claim an exemption under RCW 77.120.030. The recommendations may consider shore-based management, emergency chemical application, or other treatment methods that meet state and~~

federal requirements. The recommendations may also address potential liability issues relating to discharge of ballast water. The ballast water work group shall invite the United States environmental protection agency and the United States coast guard to participate in this evaluation. The ballast water work group shall provide a report of the recommendations to the legislature by July 1, 2008.

(o) Other responsibilities, as necessary.

~~((5)) (4) The director must also monitor the activities of the task force created by the state of Oregon in 2001 Or. Laws 722, concerning ballast water management. The director shall provide the ballast water work group with periodic updates of the Oregon task force's efforts at developing a ballast water management system.~~

~~((6(a) The ballast water work group expires June 30, 2007.~~

~~(b) This section expires June 30, 2007.))~~

Sec. 12. RCW 77.120.070 and 2000 c 108 s 8 are each amended to read as follows:

(1) ~~((Except as limited by subsection (2) or (3) of this section,)) The department may establish by rule schedules for any penalty allowed in this chapter. The schedules may provide for the incremental assessment of a penalty based on criteria established by rule.~~

(2) The director or the director's designee may impose a civil penalty or warning for a violation of the requirements of this chapter on the owner or operator in charge of a vessel who fails to comply with the requirements imposed under RCW 77.120.030 and 77.120.040. The penalty shall not exceed ~~((five)) twenty-seven thousand five hundred dollars for each day of a continuing violation. In determining the amount of a civil penalty, the department shall set standards by rule that consider if the violation was intentional, negligent, or without any fault, and shall consider the quality and nature of risks created by the violation. The owner or operator subject to such a penalty may contest the determination by requesting an adjudicative proceeding within twenty days. Any determination not timely contested is final and may be reduced to a judgment enforceable in any court with jurisdiction. If the department prevails using any judicial process to collect a penalty under this section, the department shall also be awarded its costs and reasonable attorneys' fees.~~

~~((2) The civil penalty for a violation of reporting requirements of RCW 77.120.040 shall not exceed five hundred dollars per violation.~~

~~(3) Any owner or operator who knowingly, and with intent to deceive, falsifies a ballast water management report form is liable for a civil penalty in an amount not to exceed five thousand dollars per violation, in addition to any criminal liability that may attach to the filing of false documents.~~

~~((4)) (3) The department, in cooperation with the United States coast guard, may enforce the requirements of this chapter.~~

NEW SECTION. Sec. 13. A new section is added to chapter 77.120 RCW to read as follows:

The department may assess a fee for any exemptions allowed under this chapter. Such a fee may not exceed five thousand dollars. The department may establish by rule schedules for any fee allowed in this chapter. The schedules may provide for the incremental assessment of a penalty based on criteria established by rule.

NEW SECTION. Sec. 14. A new section is added to chapter 77.120 RCW to read as follows:

(1) The ballast water management account is created in the state treasury. All receipts from legislative appropriations, gifts, grants, donations, penalties, and fees received under this chapter must be deposited into the account.

(2) Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to carry out the purposes of this chapter or support the goals of this chapter through research and monitoring except:

(a) Expenditures may not be used for the salaries of permanent department employees; and

(b) Penalties deposited into the account may be used, in consultation with the ballast water work group created in section 11 of this act, only to support basic and applied research and

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carry out education and outreach related to the state's ballast water management.

NEW SECTION. Sec. 15. A new section is added to chapter 77.120 RCW to read as follows:

The department may issue a special operating authorization for passenger vessels conducting or assisting in research and testing activities to determine the presence of invasive species in ballast water collected in the waters of southeast Alaska north of latitude fifty-four degrees thirty minutes north to sixty-one degrees ten minutes north, extending to longitude one hundred forty-nine degrees thirty minutes west. Such testing and research shall be reviewed by the ballast water work group, who may make recommendations to the department. The department may adopt rules for defining special operating authorization conditions, requirements, limitations, and fees as necessary to implement this section, consistent with the intent of this chapter.

NEW SECTION. Sec. 16. Section 11 of this act is added to chapter 77.120 RCW.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

- (1) RCW 77.120.060 (Report to legislature--Results of chapter) and 2002 c 282 s 4 & 2000 c 108 s 7;
- (2) RCW 77.120.080 (Legislative review of chapter--Recommendations) and 2000 c 108 s 9; and
- (3) RCW 77.120.090 (Ballast water information system--Improvements) and 2002 c 282 s 5."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5923.

Senators Jacobsen and Swecker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5923.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5923 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5923, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5923, as amended by the House, 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. 5923, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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At 11:15 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:00 p.m. by President Owen.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5597, with the following amendment: 5597-S2 AMH CODY H3475.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1) A health carrier must reimburse a chiropractor who has signed a participating provider agreement for services determined by the carrier to be medically necessary if:

(a) The service is:

(i) Covered chiropractic health care, as defined in RCW 48.43.515, by the health plan under which the enrollee received the services; and

(ii) Provided by the chiropractor, or the chiropractor's employee specified in RCW 18.25.190 (2) or (3) who works in the same location as the chiropractor and to whom the chiropractor, pursuant to rules adopted by the Washington state chiropractic quality assurance commission, has delegated the service. The employee must meet the health carrier's reasonable qualifications for all such providers in the relevant class, including but not limited to standards for education and background checks, as applicable; and

(b) The chiropractor complies with the terms and conditions of the participating provider agreement. Violations of the participating provider agreement by an employee of the chiropractor to whom he or she has delegated a service may be deemed by the carrier to have been committed by the chiropractor.

(2) If a health carrier offers a participating provider agreement to a chiropractor within a single practice organized as a sole proprietorship, partnership, or corporation, the carrier must offer the same participating provider agreement to any other chiropractor within that practice providing services at the same location. The agreement may allow either party to terminate it without cause.

Sec. 2. RCW 41.05.017 and 2000 c 5 s 20 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, ~~(and)~~ 70.02.900, and section 1 of this act.

NEW SECTION. Sec. 3. This act does not affect any existing right acquired or liability or obligation incurred prior to the effective date of this act.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act takes effect January 1, 2008."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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Senator Franklin moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5597.

Senators Keiser, Franklin and Benton spoke in favor of the motion.

Senators Parlette and Jacobsen spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5597.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5597 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5597, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5597, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 2; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 41

Voting nay: Senators Haugen, Honeyford, Jacobsen, Parlette, Sheldon and Tom - 6

Absent: Senators Brown and McAuliffe - 2

SECOND SUBSTITUTE SENATE BILL NO. 5597, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5207, with the following amendment: 5207-S AMH TR H3118.5

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 46.68 RCW to read as follows:

The legislature finds that the freight sector provides thousands of high-quality, well-paid jobs in Washington state and contributes significantly to the economy of the state. The legislature further finds that these benefits result despite the fact that freight makes up a fraction of vehicle traffic on our roads and that the commercial benefits of freight movement are compromised by the same congestion that plagues general traffic.

The legislature also finds that as domestic and international freight volumes grow, and our state's economy becomes increasingly dependent on the one out of every three jobs supported by international trade, there is growing need for system-wide funding solutions to enhance a world class goods movement system that does not divert cargo and jobs to Canada, Mexico, Panama, Oregon, California, and the east coast of the United States. Accordingly, it is the intent of the legislature to study a broad array of mechanisms to fund freight congestion relief investments.

NEW SECTION. Sec. 2. (1) Subject to availability of amounts appropriated for this specific purpose, the joint transportation committee shall:

(a) Administer a consultant study of alternative funding mechanisms to fund freight congestion relief investments. At a minimum, the study must: (i) Evaluate potential funding sources for off-marine terminal infrastructure projects, including federal, state, incentives, and other project specific fees; (ii) analyze current taxes and fees paid by the freight industry and the projects the taxes and fees fund; (iii) assess other nonfreight related fees and taxes that could be used to pay for freight congestion relief investments; (iv) assess how other states and countries pay for freight congestion relief investments; and (v) discuss the various approaches and their impacts on Washington competitiveness in freight movement. The scope of the work for the study may be expanded to include analysis of other issues relevant to freight congestion relief funding; and

(b) Convene a stakeholder group composed of representatives to work on the consultant study that includes: Two representatives of container ports, one representative of trucking, one representative from railroads, one representative from international shipping, one representative from national shipping, two representatives of organized labor, two representatives of the import/export community, one representative from the department of transportation, one representative from the freight mobility strategic investment board, and other representatives as deemed necessary by the joint transportation committee. The stakeholder group shall work with the selected consultant in: (i) Identifying critical freight congestion relief investments; (ii) identifying alternatives for a dedicated funding source for freight congestion relief investments or user fees to fund specific freight congestion relief investments; and (iii) developing and reviewing a final consultant study.

(2) The consultant's draft report must be submitted to the transportation committees of the legislature by December 15, 2007, with the final findings and recommendations of the report being due prior to the beginning of the 2008 legislative session.

NEW SECTION. Sec. 3. This act expires January 31, 2008."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5207 and ask the House to recede therefrom.

Senators Haugen and Swecker spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5207 and ask the House to recede therefrom.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5207 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5272, with the following amendment: 5272 AMH TR H3096.2

Strike everything after the enacting clause and insert the following:

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

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

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

(2) "Bond" means a bond duly executed with a corporate surety qualified under chapter 48.28 RCW, which bond is

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payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter.

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

(4) "Bulk transfer-terminal system" means the motor vehicle fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Motor vehicle fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer-terminal system. Motor vehicle fuel in the fuel tank of an engine, motor vehicle, or in a railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer-terminal system.

(5) (~~"Dealer"~~) means a person engaged in the retail sale of motor vehicle fuel.

~~(6))~~ "Department" means the department of licensing.

~~((7))~~ (6) "Director" means the director of licensing.

~~((8))~~ (7) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

(a) A knowing: False statement; misrepresentation of fact; or other act of deception; or

(b) An intentional: Omission; failure to file a return or report; or other act of deception.

~~((9))~~ (8) "Export" means to obtain motor vehicle fuel in this state for sales or distribution outside the state.

~~((10))~~ (9) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

~~((11))~~ (10) "Import" means to bring motor vehicle fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(11) "International fuel tax agreement licensee" means a motor vehicle fuel user operating qualified motor vehicles in interstate commerce and licensed by the department under the international fuel tax agreement.

(12) "Licensee" means a person holding a motor vehicle fuel supplier, motor vehicle fuel importer, motor vehicle fuel exporter, motor vehicle fuel blender, motor vehicle distributor, or international fuel tax agreement license issued under this chapter.

(13) (~~"Marine fuel dealer"~~) means a person engaged in the retail sale of motor vehicle fuel whose place of business and/or sale outlet is located upon a navigable waterway.

~~((14))~~ "Motor vehicle fuel blender" means a person who produces blended motor fuel outside the bulk transfer-terminal system.

~~((15))~~ (14) "Motor vehicle fuel distributor" means a person who acquires motor vehicle fuel from a supplier, distributor, or licensee for subsequent sale and distribution.

~~((16))~~ (15) "Motor vehicle fuel exporter" means a person who purchases motor vehicle fuel in this state and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state. If the exporter of record is acting as an agent, the person for whom the agent is acting is the exporter. If there is no exporter of record, the owner of the motor fuel at the time of exportation is the exporter.

~~((17))~~ (16) "Motor vehicle fuel importer" means a person who imports motor vehicle fuel into the state by a means other than the bulk transfer-terminal system. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record, the owner of the motor vehicle fuel at the time of importation is the importer.

~~((18))~~ (17) "Motor vehicle fuel supplier" means a person who holds a federal certificate of registry that is issued under the internal revenue code and authorizes the person to enter into federal tax-free transactions on motor vehicle fuel in the bulk transfer-terminal system.

~~((19))~~ (18) "Motor vehicle" means a self-propelled vehicle designed for operation upon land utilizing motor vehicle fuel as the means of propulsion.

~~((20))~~ (19) "Motor vehicle fuel" means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold, the chief use of

which is as fuel for the propulsion of motor vehicles or motorboats.

~~((21))~~ (20) "Person" means a natural person, fiduciary, association, or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

~~((22))~~ (21) "Position holder" means a person who holds the inventory position in motor vehicle fuel, as reflected by the records of the terminal operator. A person holds the inventory position in motor vehicle fuel if the person has a contractual agreement with the terminal for the use of storage facilities and terminating services at a terminal with respect to motor vehicle fuel. "Position holder" includes a terminal operator that owns motor vehicle fuel in their terminal.

~~((23))~~ (22) "Rack" means a mechanism for delivering motor vehicle fuel from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer.

~~((24))~~ (23) "Refiner" means a person who owns, operates, or otherwise controls a refinery.

~~((25))~~ (24) "Removal" means a physical transfer of motor vehicle fuel other than by evaporation, loss, or destruction.

~~((26))~~ (25) "Terminal" means a motor vehicle fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service, is supplied by pipeline or vessel, and from which reportable motor vehicle fuel is removed at a rack.

~~((27))~~ (26) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

~~((28))~~ (27) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable motor vehicle fuel is transferred from one licensed supplier to another licensed supplier under an exchange or buy-sell agreement whereby the supplier that is the position holder agrees to deliver taxable motor vehicle fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder.

Sec. 2. RCW 82.36.020 and 2001 c 270 s 2 are each amended to read as follows:

(1) There is hereby levied and imposed upon motor vehicle fuel (~~users~~) licensees, other than motor vehicle fuel distributors, a tax at the rate computed in the manner provided in RCW 82.36.025 on each gallon of motor vehicle fuel.

(2) The tax imposed by subsection (1) of this section is imposed when any of the following occurs:

(a) Motor vehicle fuel is removed in this state from a terminal if the motor vehicle fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(b) Motor vehicle fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the motor vehicle fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(c) Motor vehicle fuel enters into this state (~~for sale, consumption, use, or storage~~) if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Motor vehicle fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the motor vehicle fuel;

(e) Blended motor vehicle fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended motor vehicle fuel subject to the tax is the difference between the total number of gallons of blended motor vehicle fuel removed or sold and the number of gallons of previously taxed motor vehicle fuel used to produce the blended motor vehicle fuel;

(f) Motor vehicle fuel is sold by a licensed motor vehicle fuel supplier to a motor vehicle fuel distributor, motor vehicle fuel importer, (~~or~~) motor vehicle fuel blender, or international

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fuel tax agreement licensee and the motor vehicle fuel is not removed from the bulk transfer-terminal system.

(3) The proceeds of the motor vehicle fuel excise tax shall be distributed as provided in RCW 46.68.090.

Sec. 3. RCW 82.36.025 and 2005 c 314 s 101 are each amended to read as follows:

(1) A motor vehicle fuel tax rate of twenty-three cents per gallon (~~(applies to the sale, distribution, or use of)~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(2) Beginning July 1, 2003, an additional and cumulative motor vehicle fuel tax rate of five cents per gallon (~~(applies to the sale, distribution, or use of)~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Beginning July 1, 2005, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon (~~(applies to the sale, distribution, or use of)~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(4) Beginning July 1, 2006, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon (~~(applies to the sale, distribution, or use of)~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(5) Beginning July 1, 2007, an additional and cumulative motor vehicle fuel tax rate of two cents per gallon (~~(applies to the sale, distribution, or use of)~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(6) Beginning July 1, 2008, an additional and cumulative motor vehicle fuel tax rate of one and one-half cents per gallon (~~(applies to the sale, distribution, or use of)~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

Sec. 4. RCW 82.36.026 and 2001 c 270 s 3 are each amended to read as follows:

(1) A licensed supplier shall (~~remit~~) be liable for and pay tax to the department as provided in RCW 82.36.020. On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer (who) shall (buyer shall remit) be liable for and pay the tax.

(2) A refiner shall (~~remit~~) be liable for and pay tax to the department on motor vehicle fuel removed from a refinery as provided in RCW 82.36.020(2)(b).

(3) ~~(An)~~ A licensed importer shall (remit) be liable for and pay tax to the department on motor vehicle fuel imported into this state as provided in RCW 82.36.020(2)(c).

(4) A licensed blender shall (~~remit~~) be liable for and pay tax to the department on the removal or sale of blended motor vehicle fuel as provided in RCW 82.36.020(2)(e).

(5) Nothing in this chapter shall prohibit the licensee liable for payment of the tax under this chapter from including as a part of the selling price an amount equal to the tax.

NEW SECTION. Sec. 5. A new section is added to chapter 82.36 RCW to read as follows:

International fuel tax agreement licensees, or persons operating motor vehicles under other reciprocity agreements entered into with the state of Washington, are liable for and must pay the tax under RCW 82.36.020 to the department on motor vehicle fuel used to operate motor vehicles on the highways of this state. This provision does not apply if the tax under RCW 82.36.020 has previously been imposed and paid by the international fuel tax agreement licensee or if the use of such fuel is exempt from the tax under this chapter.

Sec. 6. RCW 82.36.027 and 1998 c 176 s 9 are each amended to read as follows:

A terminal operator is jointly and severally liable for (~~remitting~~) payment of the tax imposed under RCW 82.36.020(1) if, at the time of removal:

(1) The position holder with respect to the motor vehicle fuel is a person other than the terminal operator and is not a licensee;

(2) The terminal operator is not a licensee;

(3) The position holder has an expired internal revenue service notification certificate issued under 26 C.F.R. Part 48; or

(4) The terminal operator had reason to believe that information on the notification certificate was false.

Sec. 7. RCW 82.36.031 and 1998 c 176 s 11 are each amended to read as follows:

For the purpose of determining the amount of liability for the tax imposed under this chapter, and to periodically update license information, each licensee, other than a motor vehicle fuel distributor or an international fuel tax agreement licensee, shall file monthly tax reports with the department, on a form prescribed by the department. An international fuel tax licensee shall file quarterly tax reports with the department, on a form prescribed by the department.

A report shall be filed with the department even though no motor vehicle fuel tax is due for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and made under penalties of perjury, which declaration has the same force and effect as a verification of the report and is in lieu of the verification. The report shall show information as the department may require for the proper administration and enforcement of this chapter. Tax reports shall be filed on or before the twenty-fifth day of the next succeeding calendar month following the period to which the reports relate. If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date.

The department, if it deems it necessary in order to ensure payment of the tax imposed under this chapter, or to facilitate the administration of this chapter, may require the filing of reports and tax remittances at shorter intervals than one month.

Sec. 8. RCW 82.36.045 and 1998 c 176 s 16 are each amended to read as follows:

(1) If the department determines that the tax reported by a licensee is deficient, the department shall assess the deficiency on the basis of information available to it, and shall add a penalty of two percent of the amount of the deficiency.

(2) If a licensee, or person acting as such, fails, neglects, or refuses to file a motor vehicle fuel tax report the department shall, on the basis of information available to it, determine the tax liability of the licensee or person for the period during which no report was filed. The department shall add the penalty provided in subsection (1) of this section to the tax. An assessment made by the department under this subsection or subsection (1) of this section is presumed to be correct. In any case, where the validity of the assessment is questioned, the burden is on the person who challenges the assessment to establish by a fair preponderance of evidence that it is erroneous or excessive, as the case may be.

(3) If a licensee or person acting as such files a false or fraudulent report with intent to evade the tax imposed by this chapter, the department shall add to the amount of deficiency a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsections (1) and (2) of this section and all other penalties prescribed by law.

(4) Motor vehicle fuel tax, penalties, and interest payable under this chapter bears interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion of it should have been paid until the date of payment. If a licensee or person acting as such establishes by a fair preponderance of evidence that the failure to pay the amount of tax due was attributable to reasonable cause and was not intentional or willful, the department may waive the penalty. The department may waive the interest when it determines the cost of processing or collection of the interest exceeds the amount of interest due.

(5) Except in the case of a fraudulent report, neglect or refusal to make a report, or failure to pay or to pay the proper amount, the department shall assess the deficiency under subsection (1) or (2) of this section within five years from the last day of the succeeding calendar month after the reporting period for which the amount is proposed to be determined or within five years after the return is filed, whichever period expires later.

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(6) Except in the case of violations of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interest of carrying out the purpose of this chapter, it may mitigate such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter.

(7) A licensee or person acting as such against whom an assessment is made under subsection (1) or (2) of this section may petition for a reassessment within thirty days after service upon the licensee of notice of the assessment. If the petition is not filed within the thirty-day period, the amount of the assessment becomes final at the expiration of that period.

If a petition for reassessment is filed within the thirty-day period, the department shall reconsider the assessment and, if the petitioner has so requested in its petition, shall grant the petitioner an oral hearing and give the petitioner twenty days' notice of the time and place of the hearing. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment becomes final thirty days after service of notice upon the petitioner.

An assessment made by the department becomes due and payable when it becomes final. If it is not paid to the department when due and payable, the department shall add a penalty of ten percent of the amount of the tax.

(8) In a suit brought to enforce the rights of the state under this chapter, the assessment showing the amount of taxes, penalties, interest, and cost unpaid to the state is prima facie evidence of the facts as shown.

(9) A notice of assessment required by this section must be served personally or by certified or registered mail. If it is served by mail, service shall be made by deposit of the notice in the United States mail, postage prepaid, addressed to the respondent at the most current address furnished to the department.

~~((10) The tax imposed by this chapter, if required to be collected by the seller, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.))~~

Sec. 9. RCW 82.36.060 and 2001 c 270 s 5 are each amended to read as follows:

(1) An application for a license issued under this chapter shall be made to the department on forms to be furnished by the department and shall contain such information as the department deems necessary.

(2) Every application for a license must contain the following information to the extent it applies to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

(b) The applicant's form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant and any partner, officer, or director;

(d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime that directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten

years, or has suffered a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.

(3) An applicant for a license as a motor vehicle fuel importer must list on the application each state, province, or country from which the applicant intends to import motor vehicle fuel and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(4) An applicant for a license as a motor vehicle fuel exporter must list on the application each state, province, or country to which the exporter intends to export motor vehicle fuel received in this state by means of a transfer outside of the bulk transfer-terminal system and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(5) An applicant for a license as a motor vehicle fuel supplier must have a federal certificate of registry that is issued under the internal revenue code and authorizes the applicant to enter into federal tax-free transactions on motor vehicle fuel in the terminal transfer system.

(6) After receipt of an application for a license, the director may conduct an investigation to determine whether the facts set forth are true. The director shall require a fingerprint record check of the applicant through the Washington state patrol criminal identification system and the federal bureau of investigation before issuance of a license. The results of the background investigation including criminal history information may be released to authorized department personnel as the director deems necessary. The department shall charge a license holder or license applicant a fee of fifty dollars for each background investigation conducted.

An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.

(7) Except as provided by subsection (8) of this section, before granting any license issued under this chapter, the department shall require applicant to file with the department, in such form as shall be prescribed by the department, a corporate surety bond duly executed by the applicant as principal, payable to the state and conditioned for faithful performance of all the requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter. The total amount of the bond or bonds shall be fixed by the department and may be increased or reduced by the department at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds, the department shall require a bond or bonds equivalent in total amount to twice the estimated monthly excise tax determined in such manner as the department may deem proper. If at any time the estimated excise tax to become due during the succeeding month amounts to more than fifty percent of the established bond, the department shall require additional bonds or securities to maintain the marginal ratio herein specified or shall demand excise tax payments to be made weekly or semimonthly to meet the requirements hereof.

The total amount of the bond or bonds required of any licensee shall never be less than five thousand dollars nor more than one hundred thousand dollars.

No recoveries on any bond or the execution of any new bond shall invalidate any bond and no revocation of any license shall effect the validity of any bond but the total recoveries under any one bond shall not exceed the amount of the bond.

In lieu of any such bond or bonds in total amount as herein fixed, a licensee may deposit with the state treasurer, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the state, or any county of the state, of an actual market value not less than the amount so fixed by the department.

Any surety on a bond furnished by a licensee as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty

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days from the date upon which such surety has lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty day period. The department shall promptly, upon receiving any such request, notify the licensee who furnished the bond; and unless the licensee, on or before the expiration of the thirty day period, files a new bond, or makes a deposit in accordance with the requirements of this section, the department shall forthwith cancel the license. Whenever a new bond is furnished by a licensee, the department shall cancel the old bond as soon as the department and the attorney general are satisfied that all liability under the old bond has been fully discharged.

The department may require a licensee to give a new or additional surety bond or to deposit additional securities of the character specified in this section if, in its opinion, the security of the surety bond theretofore filed by such licensee, or the market value of the properties deposited as security by the licensee, shall become impaired or inadequate; and upon the failure of the licensee to give such new or additional surety bond or to deposit additional securities within thirty days after being requested so to do by the department, the department shall forthwith cancel his or her license.

(8) The department may waive the requirements of subsection (7) of this section for licensed distributors if, upon determination by the department, the licensed distributor has sufficient resources, assets, other financial instruments, or other means, to adequately make payments on the estimated monthly motor vehicle fuel tax payments, penalties, and interest arising out of this chapter. The department shall adopt rules to administer this subsection. An application for an international fuel tax agreement license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department may require. The department shall charge a fee of ten dollars per set of international fuel tax agreement decals issued to each applicant or licensee. The department shall transmit the fee to the state treasurer for deposit in the motor vehicle fund.

Sec. 10. RCW 82.36.080 and 1998 c 176 s 20 are each amended to read as follows:

(1) It shall be unlawful for any person to engage in business in this state as any of the following unless the person is the holder of an uncanceled license issued by the department authorizing the person to engage in that business:

- (a) Motor vehicle fuel supplier;
- (b) Motor vehicle fuel distributor;
- (c) Motor vehicle fuel exporter;
- (d) Motor vehicle fuel importer; ~~((or))~~
- (e) Motor vehicle fuel blender; or
- (f) International fuel tax agreement licensee.

(2) A person engaged in more than one activity for which a license is required must have a separate license classification for each activity, but a motor vehicle fuel supplier is not required to obtain a separate license classification for any other activity for which a license is required.

(3) If any person acts as a licensee without first securing the license required herein the excise tax shall be immediately due and payable on account of all motor vehicle fuel distributed or used by the person. The director shall proceed forthwith to determine from the best available sources, the amount of the tax, and the director shall immediately assess the tax in the amount found due, together with a penalty of one hundred percent of the tax, and shall make a certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty, or both, such certificate shall be prima facie evidence that the person therein named is indebted to the state in the amount of the tax and penalty therein stated. Any tax or penalty so assessed may be collected in the manner prescribed in this chapter with reference to delinquency in payment of the tax or by an action at law, which the attorney general shall commence and prosecute to final determination at the request of the director. The foregoing remedies of the state shall be cumulative and no action taken pursuant to this section shall relieve any person from the penal provisions of this chapter.

Sec. 11. RCW 82.36.160 and 1998 c 176 s 27 are each amended to read as follows:

Every licensee shall maintain in the office of his or her principal place of business in this state, for a period of five years, records of motor vehicle fuel received, sold, distributed, or used by the licensee, in such form as the director may prescribe, together with invoices, bills of lading, and other pertinent papers as may be required under the provisions of this chapter.

~~((Every dealer purchasing motor vehicle fuel taxable under this chapter for the purpose of resale, shall maintain within this state, for a period of two years a record of motor vehicle fuels received, the amount of tax paid to the licensee as part of the purchase price, together with delivery tickets, invoices, and bills of lading, and such other records as the director shall require.))~~

Sec. 12. RCW 82.36.180 and 1998 c 176 s 30 are each amended to read as follows:

The director, or duly authorized agents, may make such examinations of the records, stocks, facilities, and equipment of any licensee, ~~((and service stations.))~~ and make such other investigations as deemed necessary in carrying out the provisions of this chapter. If such examinations or investigations disclose that any reports of licensees theretofore filed with the director pursuant to the requirements of this chapter have shown incorrectly the gallonage of motor vehicle fuel distributed or the tax ~~((accruing))~~ liability thereon, the director may make such changes in subsequent reports and payments of such licensees as deemed necessary to correct the errors disclosed.

Every such licensee or such other person not maintaining records in this state so that an audit of such records may be made by the director or a duly authorized representative shall be required to make the necessary records available to the director upon request and at a designated office within this state; or, in lieu thereof, the director or a duly authorized representative shall proceed to any out-of-state office at which the records are prepared and maintained to make such examination.

NEW SECTION. Sec. 13. A new section is added to chapter 82.36 RCW to read as follows:

Motor vehicle fuel that is used exclusively for racing and is illegal for use on the public highways of this state under state or federal law is exempt from the tax imposed under this chapter.

Sec. 14. RCW 82.36.320 and 1961 c 15 s 82.36.320 are each amended to read as follows:

Any person claiming refund on motor vehicle fuel used other than in motor vehicles as herein provided ~~((and any person purchasing motor vehicle fuel from a dealer who is claiming refund on account of the sale of such fuel under RCW 82.36.305))~~ may be required by the director to also furnish information regarding the amount of motor vehicle fuel purchased from other sources or for other purposes during the period reported for which no refund is claimed.

Sec. 15. RCW 82.36.340 and 1961 c 15 s 82.36.340 are each amended to read as follows:

The director may in order to establish the validity of any claim for refund require the claimant ~~((or, in the case of a dealer filing a claim for refund as provided by RCW 82.36.305, the person to whom such fuel was sold.))~~ to furnish such additional proof of the validity of the claim as the director may determine, and may examine the books and records of the claimant or said person to whom the fuel was sold for such purpose. The records shall be sufficient to substantiate the accuracy of the claim and shall be in such form and contain such information as the director may require. The failure to maintain such records or to accede to a demand for an examination of such records may be deemed by the director as sufficient cause for denial of all right to the refund claimed on account of the transaction in question.

Sec. 16. RCW 82.36.370 and 1998 c 176 s 42 are each amended to read as follows:

(1) A refund shall be made in the manner provided in this chapter or a credit given to a licensee allowing for the excise tax paid or accrued on all motor vehicle fuel which is lost or destroyed, while ~~((applicant shall be the owner thereof))~~ the licensee was the owner, through fire, lightning, flood, wind storm, or explosion.

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(2) A refund shall be made in the manner provided in this chapter or a credit given allowing for the excise tax paid or accrued on all motor vehicle fuel of five hundred gallons or more which is lost or destroyed, while ~~((applicant shall be))~~ the licensee was the owner thereof, through leakage or other casualty except evaporation, shrinkage or unknown causes: PROVIDED, That the director shall be notified in writing as to the full circumstances surrounding such loss or destruction and the amount of the loss or destruction within thirty days from the day of discovery of such loss or destruction.

(3) Recovery for such loss or destruction under either subsection (1) or (2) must be susceptible to positive proof thereby enabling the director to conduct such investigation and require such information as the director may deem necessary.

In the event that the director is not satisfied that the fuel was lost or destroyed as claimed, wherefore required information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, the director may deem as sufficient cause the denial of all right relating to the refund or credit for the excise tax on motor vehicle fuel alleged to be lost or destroyed.

Sec. 17. RCW 82.36.380 and 2003 c 358 s 13 are each amended to read as follows:

(1) It is unlawful for a person or corporation to:

(a) Evade a tax or fee imposed under this chapter;

(b) File a false statement of a material fact on a motor fuel license application or motor fuel refund application;

(c) Act as a motor fuel importer, motor fuel blender, or motor fuel supplier unless the person holds an uncanceled motor fuel license issued by the department authorizing the person to engage in that business;

(d) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(e) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering motor vehicle fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons.

(2) A violation of subsection (1) of this section is a class C felony under chapter 9A.20 RCW. In addition to other penalties and remedies provided by law, the court shall order a person or corporation found guilty of violating subsection (1) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded, to the multimodal transportation account of the state.

(3) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax on the due date as prescribed in this chapter is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax imposed by this chapter is personally liable to the state for the amount of the tax.

Sec. 18. RCW 82.36.450 and 1995 c 320 s 2 are each amended to read as follows:

~~((The department of licensing may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding the imposition, collection, and use of this state's motor vehicle fuel tax, or the budgeting or use of moneys in lieu thereof, upon terms substantially the same as those in the consent decree entered by the federal district court (Eastern District of Washington) in *Confederated Tribes of the Colville Reservation v. DOL, et al.*, District Court No. CY-92-248-JLO.))~~ (1) The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding motor vehicle fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed by the tribe to operate a retail station located on reservation or trust property. The agreement may provide

mutually agreeable means to address any tribal immunities or any preemption of the state motor vehicle fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on the effective date of this act. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on the effective date of this act.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all motor vehicle fuel only from persons or companies operating lawfully in accordance with this chapter as a motor vehicle fuel distributor, supplier, importer, or blender, or from a tribal distributor, supplier, importer, or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of motor vehicle fuel purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement shall be deemed to be personal information under RCW 42.56.230(3)(b) and exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing shall prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes.

NEW SECTION. Sec. 19. A new section is added to chapter 82.36 RCW to read as follows:

It is the intent and purpose of this chapter that the tax shall be imposed at the time and place of the first taxable event and upon the first taxable person within this state. Any person whose activities would otherwise require payment of the tax imposed by RCW 82.36.020 but who is exempt from the tax nevertheless has a precollection obligation for the tax that must be imposed on the first taxable event within this state. Failure to pay the tax with respect to a taxable event shall not prevent tax liability from arising by reason of a subsequent taxable event.

Sec. 20. RCW 82.38.030 and 2005 c 314 s 102 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel ~~((users))~~ licensees, other than special fuel distributors, a tax at the rate of twenty-three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature.

(2) Beginning July 1, 2003, an additional and cumulative tax rate of five cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Beginning July 1, 2005, an additional and cumulative tax rate of three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors.

(4) Beginning July 1, 2006, an additional and cumulative tax rate of three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors.

(5) Beginning July 1, 2007, an additional and cumulative tax rate of two cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard

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pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors.

(6) Beginning July 1, 2008, an additional and cumulative tax rate of one and one-half cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users))~~ licensees, other than special fuel distributors.

(7) Taxes are imposed when:

(a) Special fuel is removed in this state from a terminal if the special fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is ~~((to))~~ by a special fuel ~~((distributor))~~ supplier for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(b) Special fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the special fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel ~~((distributor))~~ supplier for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(c) Special fuel enters into this state for sale, consumption, use, or storage, unless the fuel enters this state for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320, if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Special fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the special fuel;

(e) Blended special fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended special fuel subject to tax is the difference between the total number of gallons of blended special fuel removed or sold and the number of gallons of previously taxed special fuel used to produce the blended special fuel;

(f) Dyed special fuel is used on a highway, as authorized by the internal revenue code, unless the use is exempt from the special fuel tax;

(g) Dyed special fuel is held for sale, sold, used, or is intended to be used in violation of this chapter;

(h) Special fuel purchased by an international fuel tax agreement licensee under RCW 82.38.320 is used on a highway; and

(i) Special fuel is sold by a licensed special fuel supplier to a special fuel distributor, special fuel importer, or special fuel blender and the special fuel is not removed from the bulk transfer-terminal system.

~~((8)) The tax imposed by this chapter, if required to be collected by the licensee, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.))~~

Sec. 21. RCW 82.38.032 and 1998 c 176 s 52 are each amended to read as follows:

~~((The tax under RCW 82.38.030, if not previously imposed and paid, must be paid over to the department by special fuel users and persons licensed under the international fuel tax agreement or other fuel tax reciprocity agreements entered into with the state of Washington, on the use of special fuel to operate motor vehicles on the highways of this state, unless the use is exempt from the tax under this chapter.)) International~~

fuel tax agreement licensees, or persons operating motor vehicles under other reciprocity agreements entered into with the state of Washington, are liable for and must pay the tax under RCW 82.38.030 to the department on special fuel used to operate motor vehicles on the highways of this state. This provision does not apply if the tax under RCW 82.38.030 has previously been imposed and paid by the international fuel tax agreement licensee or if the use of such fuel is exempt from the tax under this chapter.

Sec. 22. RCW 82.38.035 and 2005 c 314 s 107 are each amended to read as follows:

(1) A licensed supplier shall ~~((remit))~~ be liable for and pay tax on special fuel to the department as provided in RCW 82.38.030(7)(a). On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer shall ~~((remit))~~ be liable for and pay the tax.

(2) A refiner shall ~~((remit))~~ be liable for and pay tax to the department on special fuel removed from a refinery as provided in RCW 82.38.030(7)(b).

(3) ~~((An))~~ A licensed importer shall ~~((remit))~~ be liable for and pay tax to the department on special fuel imported into this state as provided in RCW 82.38.030(7)(c).

(4) A licensed blender shall ~~((remit))~~ be liable for and pay tax to the department on the removal or sale of blended special fuel as provided in RCW 82.38.030(7)(e).

(5) A licensed dyed special fuel user shall ~~((remit))~~ be liable for and pay tax to the department on the use of dyed special fuel as provided in RCW 82.38.030(7)(f).

(6) Nothing in this chapter prohibits the licensee liable for payment of the tax under this chapter from including as a part of the selling price an amount equal to such tax.

Sec. 23. RCW 82.38.050 and 1990 c 250 s 82 are each amended to read as follows:

~~((Except as otherwise provided in this chapter, every special fuel user shall be liable for the tax on special fuel used in motor vehicles leased to the user for thirty days or more and operated on the highways of this state to the same extent and in the same manner as special fuel used in his own motor vehicles and operated on the highways of this state. PROVIDED, That))~~ A lessor who is engaged regularly in the business of leasing or renting for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be the special fuel user when he supplies or pays for the special fuel consumed in such vehicles, and such lessor may be issued ~~((a))~~ an international fuel tax agreement license ~~((as a special fuel user))~~ when application and bond have been properly filed with and approved by the department for such license. Any lessee may exclude motor vehicles of which he or she is the lessee from reports and liabilities pursuant to this chapter, but only if the motor vehicles in question have been leased from a lessor holding a valid ~~((special fuel user's))~~ international fuel tax agreement license.

~~((Every such lessor shall file with the application for a special fuel user's license one copy of the lease form or service contract the lessor enters into with the various lessees of the lessor's motor vehicles.))~~ When the ~~((special fuel user's))~~ license has been secured, such lessor shall make and assign to each motor vehicle leased for interstate operation a photocopy of such license to be carried in the cab compartment of the motor vehicle and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned and the name of the lessee. Such lessor shall be responsible for the proper use of such photocopy of the license issued and its return to the lessor with the motor vehicle to which it is assigned.

The lessor shall be responsible for fuel tax licensing and reporting, as required by this chapter, on the operation of all motor vehicles leased to others for less than thirty days.

Sec. 24. RCW 82.38.100 and 1999 c 270 s 2 are each amended to read as follows:

(1) Any special fuel user operating a motor vehicle into this state for commercial purposes may make application for a trip permit that shall be good for a period of three consecutive days

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beginning and ending on the dates specified on the face of the permit issued, and only for the vehicle for which it is issued.

(2) Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety, signed, and dated by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, vehicle license number, or vehicle identification number invalidates the permit. A violation of, or a failure to comply with, this subsection is a gross misdemeanor.

(3) For each permit issued, there shall be collected a filing fee of one dollar, an administrative fee of ten dollars, and an excise tax of nine dollars. Such fees and tax shall be in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state, and no report of mileage shall be required with respect to such vehicle. Trip permits will not be issued if the applicant has outstanding fuel taxes, penalties, or interest owing to the state or has had a special fuel license revoked for cause and the cause has not been removed.

(4) Blank permits may be obtained from field offices of the department of transportation, ~~((Washington state patrol,))~~ department of licensing, or other agents appointed by the department. The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(5) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other fees and excise taxes collected by the department for trip permits shall be credited and deposited in the same manner as the special fuel tax collected under this chapter and shall not be subject to exchange, refund, or credit.

Sec. 25. RCW 82.38.130 and 1998 c 176 s 65 are each amended to read as follows:

The department may revoke the license of any licensee for any of the grounds constituting cause for denial of a license set forth in RCW 82.38.120 or for other reasonable cause. Before revoking such license the department shall notify the licensee to show cause within twenty days of the date of the notice why the license should not be revoked: PROVIDED, That at any time prior to and pending such hearing the department may, in the exercise of reasonable discretion, suspend such license.

The department shall cancel any special fuel license immediately upon surrender thereof by the holder.

Any surety on a bond furnished by a licensee as provided in this chapter shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of forty-five days from the date which such surety shall have lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the forty-five day period. The department shall promptly, upon receiving any such request, notify the licensee who furnished the bond, and unless the licensee, on or before the expiration of the forty-five day period, files a new bond, in accordance with this section, the department ~~((forthwith))~~ shall cancel the ~~((special fuel dealer's or special fuel user's))~~ license.

The department may require a new or additional surety bond of the character specified in RCW 82.38.020(3) if, in its opinion, the security of the surety bond therefor filed by such licensee, shall become impaired or inadequate. Upon failure of the licensee to give such new or additional surety bond within forty-five days after being requested to do so by the department, or after he or she shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the department, the department forthwith shall cancel his or her license.

Sec. 26. RCW 82.38.140 and 1998 c 176 s 66 are each amended to read as follows:

(1) Every licensee and every person importing, manufacturing, refining, ~~((dealer in,))~~ transporting, blending, or storing special fuel in this state shall keep for a period of not less than five years open to inspection at all times during the business hours of the day to the department or its authorized representatives, a complete record of all special fuel purchased or received and all of such products sold, delivered, or used by them. Such records shall show:

- (a) The date of each receipt;
- (b) The name and address of the person from whom purchased or received;
- (c) The number of gallons received at each place of business or place of storage in the state of Washington;
- (d) The date of each sale or delivery;
- (e) The number of gallons sold, delivered, or used for taxable purposes;
- (f) The number of gallons sold, delivered, or used for any purpose not subject to the tax imposed in this chapter;
- (g) The name, address, and special fuel license number of the purchaser if the special fuel tax is not collected on the sale or delivery;
- (h) The inventories of special fuel on hand at each place of business at the end of each month.

(2)(a) All international fuel tax agreement licensees and dyed special fuel users authorized to use dyed special fuel on highway in vehicles licensed for highway operation shall maintain detailed mileage records on an individual vehicle basis.

(b) Such operating records shall show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle.

(c) In the absence of operating records that show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle, fuel consumption must be computed under RCW 82.38.060.

(3) The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering special fuel to submit periodic reports to the department regarding the disposition of the fuel. The reports must be on forms prescribed by the department and must contain such information as the department may require.

(4) Every person operating any conveyance for the purpose of hauling, transporting, or delivering special fuel in bulk shall have and possess during the entire time the person is hauling special fuel, an invoice, bill of sale, or other statement showing the name, address, and license number of the seller or consigner, the destination, name, and address of the purchaser or consignee, license number, if applicable, and the number of gallons. The person hauling such special fuel shall at the request of any law enforcement officer or authorized representative of the department, or other person authorized by law to inquire into, or investigate those types of matters, produce for inspection such invoice, bill of sale, or other statement and shall permit such official to inspect and gauge the contents of the vehicle.

Sec. 27. RCW 82.38.150 and 1998 c 176 s 67 are each amended to read as follows:

For the purpose of determining the amount of liability for the tax herein imposed, and to periodically update license information, each licensee, other than a special fuel distributor, an international fuel tax agreement licensee, or a dyed special fuel user, shall file monthly tax reports with the department, on forms prescribed by the department.

Dyed special fuel users whose estimated yearly tax liability is two hundred fifty dollars or less, shall file a report yearly, and dyed special fuel users whose estimated yearly tax liability is more than two hundred fifty dollars, shall file reports quarterly. Special fuel users licensed under the international fuel tax agreement shall file reports quarterly. ~~((Special fuel distributors))~~ Heating oil dealers subject to the pollution liability insurance agency fee and reporting requirements shall remit pollution liability insurance agency returns and any associated payment due to the department annually.

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The department shall establish the reporting frequency for each applicant at the time the special fuel license is issued. If it becomes apparent that any licensee is not reporting in accordance with the above schedule, the department shall change the licensee's reporting frequency by giving thirty days' notice to the licensee by mail to the licensee's address of record. A report shall be filed with the department even though no special fuel was used, or tax is due, for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and is in lieu of such verification. The report shall show such information as the department may reasonably require for the proper administration and enforcement of this chapter. ~~((For counties within which an additional excise tax on special fuel has been levied by that jurisdiction under RCW 82.80.010, the report must show the quantities of special fuel sold, distributed, or withdrawn from bulk storage by the reporting dealer or user within the county's boundaries and the tax liability from its levy.))~~ A licensee shall file a tax report on or before the twenty-fifth day of the next succeeding calendar month following the period to which it relates.

Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Taxpayers granted approval to file reports in this manner will file such reports on or before the twenty-fifth day following the end of the reporting period. No change to this reporting period will be made without the written authorization of the department.

If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon an envelope containing such report properly addressed to the department, or on the date it was mailed if proof satisfactory to the department is available to establish the date it was mailed.

The department, if it deems it necessary in order to insure payment of the tax imposed by this chapter, or to facilitate the administration of this chapter, has the authority to require the filing of reports and tax remittances at shorter intervals than one month if, in its opinion, an existing bond has become insufficient.

Sec. 28. RCW 82.38.180 and 1998 c 176 s 71 are each amended to read as follows:

Any person who has purchased special fuel on which tax has been paid ~~((a special fuel tax either directly or to the vendor from whom it was purchased))~~ may file a claim with the department for a refund of the tax ~~((so paid and shall be reimbursed and repaid the amount of))~~ for:

(1) ~~((Any))~~ Taxes previously paid on special fuel used for purposes other than for the propulsion of motor vehicles upon the public highways in this state.

(2) ~~((Any))~~ Taxes previously paid on special fuel exported for use outside of this state. Special fuel carried from this state in the fuel tank of a motor vehicle is deemed to be exported from this state. Special fuel distributed to a federally recognized Indian tribal reservation located within the state of Washington is not considered exported outside this state.

(3) ~~((Any))~~ Tax, penalty, or interest erroneously or illegally collected or paid.

(4) ~~((Any))~~ Taxes previously paid on all special fuel which is lost or destroyed, while ~~((applicant))~~ the licensee shall be the owner thereof, through fire, lightning, flood, wind storm, or explosion.

(5) ~~((Any))~~ Taxes previously paid on all special fuel of five hundred gallons or more which is lost or destroyed while ~~((applicant))~~ the licensee shall be the owner thereof, through leakage or other casualty except evaporation, shrinkage, or unknown causes.

(6) ~~((Any))~~ Taxes previously paid on special fuel that is inadvertently mixed with dyed special fuel.

Recovery for such loss or destruction under either subsection (4), (5), or (6) of this section must be susceptible to positive proof thereby enabling the department to conduct such

investigation and require such information as ~~((they))~~ it may deem necessary. In the event that the department is not satisfied that the fuel was lost, destroyed, or contaminated as claimed because information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, ~~((they))~~ it may deem such as sufficient cause to deny all right relating to the refund or credit for the excise tax paid on special fuel alleged to be lost or destroyed.

No refund or claim for credit shall be approved by the department unless the gallons of special fuel claimed as nontaxable satisfy the conditions specifically set forth in this section and the nontaxable event or use occurred during the period covered by the refund claim. Refunds or claims for credit ~~((by sellers or users of special fuel))~~ shall not be allowed for anticipated nontaxable use or events.

Sec. 29. RCW 82.38.270 and 2003 c 358 s 14 are each amended to read as follows:

(1) It is unlawful for a person or corporation to:

(a) Have dyed diesel in the fuel supply tank of a vehicle that is licensed or required to be licensed for highway use or maintain dyed diesel in bulk storage for highway use, unless the person or corporation maintains an uncanceled dyed diesel user license or is otherwise exempted by this chapter;

(b) Evade a tax or fee imposed under this chapter;

(c) File a false statement of a material fact on a special fuel license application or special fuel refund application;

(d) Act as a special fuel importer, special fuel blender, or special fuel supplier unless the person holds an uncanceled special fuel license issued by the department authorizing the person to engage in that business;

(e) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(f) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering special fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons.

(2)(a) A single violation of subsection (1)(a) of this section is a gross misdemeanor under chapter 9A.20 RCW.

(b) Multiple violations of subsection (1)(a) of this section and violations of subsection (1)(b) through (f) of this section are a class C felony under chapter 9A.20 RCW.

(3) In addition to other penalties and remedies provided by law, the court shall order a person or corporation found guilty of violating subsection (1)(b) through (f) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded, to the multimodal transportation account of the state.

(4) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax on the due date as prescribed in this chapter is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax imposed by this chapter is personally liable to the state for the amount of the tax.

Sec. 30. RCW 82.38.310 and 1995 c 320 s 3 are each amended to read as follows:

((The department of licensing may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding the imposition, collection, and use of this state's special fuel tax, or the budgeting or use of moneys in lieu thereof, upon terms substantially the same as those in the consent decree entered by the federal district court (Eastern District of Washington) in *Confederated Tribes of the Colville Reservation v. DOL, et al.*, District Court No. *CY 92-248-JLO*)) (1) The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding special fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed

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by the tribe to operate a retail station located on reservation or trust property. The agreement may provide mutually agreeable means to address any tribal immunities or any preemption of the state special fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on the effective date of this act. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on the effective date of this act.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all special fuel only from persons or companies operating lawfully in accordance with this chapter as a special fuel distributor, supplier, importer, or blender, or from a tribal distributor, supplier, importer, or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of special fuel purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement shall be deemed personal information under RCW 42.56.230(3)(b) and exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing shall prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes.

Sec. 31. RCW 82.38.320 and 1998 c 176 s 83 are each amended to read as follows:

(1) An international fuel tax agreement licensee who meets the qualifications in subsection (2) of this section may be given special authorization by the department to purchase special fuel delivered into bulk storage without payment of the special fuel tax at the time the fuel is purchased. The special authorization applies only to full truck-trailer loads filled at a terminal rack and delivered directly to the bulk storage facilities of the special authorization holder. The licensee shall pay special fuel tax on the fuel at the time the licensee files their international fuel tax agreement tax return and accompanying schedule with the department. The accompanying schedule shall be provided in a form and manner determined by the department and shall contain information on purchases and usage of all nondyed special fuel purchased during the reporting period. In addition, by the fifteenth day of the month following the month in which fuel under the special authorization was purchased, the licensee must report to the department, the name of the seller and the number of gallons purchased for each purchase of such fuel, and any other information as the department may require.

(2) To receive or maintain special authorization under subsection (1) of this section, the following conditions regarding the international fuel tax agreement licensee must apply:

(a) During the period encompassing the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year, the number of gallons consumed outside the state of Washington as reported on the licensee's international fuel tax agreement tax returns must have been equal to at least twenty percent of the nondyed special fuel gallons, including fuel used on-road and off-road, purchased by the licensee in the state of Washington, as reported on the accompanying schedules required under subsection (1) of this section;

(b) The licensee must have been licensed under the provisions of the international fuel tax agreement during each of

the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year; and

(c) The licensee has not violated the reporting requirements of this section.

(3) Only a licensed special fuel supplier or special fuel importer may sell special fuel to a special authorization holder in the manner prescribed by this section.

(4) A special fuel ((distributor)) supplier or importer who sells special fuel under the special authorization provisions of this section is not liable for the special fuel tax on the fuel. ((By the fifteenth day of the month following the month in which the fuel was sold, the special fuel distributor shall report to the department, the name and special authorization number of the purchaser and the number of gallons sold for each purchase of such special fuel, and any other information as the department may require.)) The special fuel supplier or importer will report such sales, in a manner prescribed by the department, at the time the special fuel supplier or importer submits the monthly tax report.

((4) A supplier selling special fuel under the provisions of this section shall not be responsible for taxes due for special fuel purchased under the provisions of this section.

(5) An international fuel tax agreement licensee who qualifies for a special authorization under this section for calendar year 1999 is not subject to the special fuel user requirements of RCW 82.38.289.)

NEW SECTION. Sec. 32. A new section is added to chapter 82.38 RCW to read as follows:

It is the intent and purpose of this chapter that the tax shall be imposed at the time and place of the first taxable event and upon the first taxable person within this state. Any person whose activities would otherwise require payment of the tax imposed by RCW 82.38.030 but who is exempt from the tax nevertheless has a precollection obligation for the tax that must be imposed on the first taxable event within this state. Failure to pay the tax with respect to a taxable event shall not prevent tax liability from arising by reason of a subsequent taxable event.

NEW SECTION. Sec. 33. The following acts or parts of acts are each repealed:

- (1) RCW 82.36.042 (Notice by supplier of distributor's failure to pay tax--License suspension--Notice to suppliers--Revocation or suspension upon continued noncompliance) and 1998 c 176 s 14;
- (2) RCW 82.36.273 (Refunds to licensee for fuel purchased by exempt person--Exception--Invoice or proof) and 1998 c 176 s 35;
- (3) RCW 82.36.305 (Refunds to dealer delivering fuel exclusively for marine use--Limitations--Supporting certificate) and 1965 ex.s. c 79 s 12 & 1961 c 15 s 82.36.305;
- (4) RCW 82.36.360 (Separate invoices for nontaxed fuel) and 1961 c 15 s 82.36.360;
- (5) RCW 82.36.373 (Refund for worthless accounts receivable--Rules--Apportionment after receipt) and 1998 c 176 s 43;
- (6) RCW 82.36.407 (Tax liability of user--Payment--Exceptions) and 1998 c 176 s 48;
- (7) RCW 82.38.070 (Credit for sales for which no consideration was received--Report--Adjustment) and 1998 c 176 s 58, 1990 c 250 s 83, & 1971 ex.s. c 175 s 8;
- (8) RCW 82.38.071 (Refund for worthless accounts receivable--Rules--Apportionment after receipt) and 1998 c 176 s 59;
- (9) RCW 82.38.081 (Exemptions--Motor vehicle fuel used for racing) and 1998 c 115 s 6;
- (10) RCW 82.38.185 (Refunds--Tax paid purchased by exempt person--Application) and 1998 c 176 s 73;
- (11) RCW 82.38.285 (Tax liability of user--Exceptions) and 1998 c 176 s 81; and
- (12) RCW 82.38.165 (Notice by supplier of distributor's failure to pay tax--License suspension--Notice to suppliers--Revocation or suspension upon continued noncompliance) and 1998 c 176 s 69.

NEW SECTION. Sec. 34. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

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and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5272 and ask the House to recede therefrom.

Senators Haugen spoke in favor of the motion.

Senators Swecker and Benton spoke against the motion.

Senator Schoesler demanded a roll call.

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

MOTION

On motion of Senator Brandland, Senator Parlette was excused.

PARLIAMENTARY INQUIRY

Senator Eide: "Would you please tell us exactly what the motion is before us."

REPLY BY THE PRESIDENT

President Owen: "The motion before us is the motion by Senator Haugen that the Senate do not concur in the House amendments to Senate Bill No. 5272 and ask the House to recede therefrom."

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5272 and ask the House to recede therefrom.

The Secretary called the roll on the motion by Senator Haugen that the Senate refuse to concur in the House amendments to Senate Bill No. 5272 and ask the House to recede therefrom and the motion carried by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, 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, Sheldon, Shin, Spanel, Tom and Weinstein - 32

Voting nay: Senators Benton, Brandland, Carrell, Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli - 16

Excused: Senator Parlette - 1

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5412, with the following amendment: 5412-S AMH TR H3318.1

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds and declares that the citizens of the state expect clear and concise goals, objectives, and responsibilities regarding the operation of the statewide transportation system. Furthermore, the state's citizens expect that the state periodically receive clear and streamlined information that measures whether the goals and

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objectives are being satisfied. Therefore, it is the intent of the legislature that this act serve to clarify existing goals, objectives, and responsibilities related to the operation of an efficient statewide transportation system.

Sec. 2. RCW 47.01.011 and 1977 ex.s. c 151 s 1 are each amended to read as follows:

The legislature hereby recognizes the following imperative needs within the state: To create a statewide transportation development plan which identifies present status and sets goals for the future; to coordinate transportation modes; to promote and protect land use programs required in local, state, and federal law; to coordinate transportation with the economic development of the state; to supply a broad framework in which regional, metropolitan, and local transportation needs can be related; to facilitate the supply of federal and state aid to those areas which will most benefit the state as a whole; to provide for public involvement in the transportation planning and development process; to administer programs within the jurisdiction of this title relating to the safety of the state's transportation systems; and to coordinate and implement national transportation policy with the state transportation planning program.

The legislature finds and declares that placing all elements of transportation in a single department is fully consistent with and shall in no way impair the use of moneys in the motor vehicle fund exclusively for highway purposes.

Through this chapter, a unified department of transportation is created. To the jurisdiction of this department will be transferred the present powers, duties, and functions of the department of highways, the highway commission, the toll bridge authority, the aeronautics commission, and the canal commission, and the transportation related powers, duties, and functions of the planning and community affairs agency. The powers, duties, and functions of the department of transportation must be performed in a manner consistent with the policy goals set forth in RCW 47.01.012 (as recodified by this act).

Sec. 3. RCW 47.01.012 and 2002 c 5 s 101 are each amended to read as follows:

(1) It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals ((shall consist of, but not be limited to, the following)) established under this section are deemed consistent with the benchmark categories((s)) adopted by the state's blue ribbon commission on transportation on November 30, 2000. ((In addition to improving safety,)) Public investments in transportation ((shall) should support achievement of these ((and other priority)) policy goals:

((No interstate highways, state routes, and local arterials shall be in poor condition; no bridges shall be structurally deficient, and safety retrofits shall be performed on those state bridges at the highest seismic risk levels; traffic congestion on urban state highways shall be significantly reduced and be no worse than the national mean; delay per driver shall be significantly reduced and no worse than the national mean; per capita vehicle miles traveled shall be maintained at 2000 levels; the nonauto share of commuter trips shall be increased in urban areas; administrative costs as a percentage of transportation spending shall achieve the most efficient quartile nationally; and the state's public transit agencies shall achieve the median cost per vehicle revenue hour of peer transit agencies, adjusting for the regional cost-of-living.))

(a) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

(b) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(c) Mobility: To improve the predictable movement of goods and people throughout Washington state;

(d) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

(e) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

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(2) The powers, duties, and functions of state transportation agencies must be performed in a manner consistent with the policy goals set forth in subsection (1) of this section.

(3) These policy goals (~~shall~~) are intended to be the basis for (~~establishment of~~) establishing detailed and measurable objectives and related performance (~~benchmarks~~) measures.

(4) It is the intent of the legislature that the (~~transportation commission~~) office of financial management establish objectives and performance measures for the department of transportation and other state agencies with transportation-related responsibilities to ensure transportation system performance at local, regional, and state government levels(~~, and the transportation commission should work with appropriate government entities to accomplish this~~) progresses toward the attainment of the policy goals set forth in subsection (1) of this section. The office of financial management shall submit initial objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during the 2008 legislative session. The office of financial management shall submit objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during each regular session of the legislature during an even-numbered year thereafter.

(5) This section does not create a private right of action.

Sec. 4. RCW 47.01.071 and 2006 c 334 s 3 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate, the policies shall provide for the use of integrated, intermodal transportation systems (~~to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy~~). The policies must be aligned with the goals established in RCW 47.01.012 (as recodified by this act). To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) (~~Propose a transportation policy for the state;~~)

~~(d))~~ Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature; and

~~((c) To)~~ (d) Integrate the statewide transportation plan with the needs of the elderly and (~~handicapped~~) persons with disabilities, and (~~to~~) coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(3) In conjunction with the provisions under RCW 47.01.075, to provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(4) By December 2010, to prepare a comprehensive and balanced statewide transportation plan (~~which shall be~~) consistent with the state's growth management goals and based on the transportation policy (~~adopted by the governor and the legislature~~) goals provided under RCW 47.01.012 (as recodified by this act) and applicable state and federal laws. The plan must reflect the priorities of government developed by the

office of financial management and address regional needs, including multimodal transportation planning. The plan must, at a minimum: (a) Establish a vision for the development of the statewide transportation system; (b) identify significant statewide transportation policy issues; and (c) recommend statewide transportation policies and strategies to the legislature to fulfill the requirements of subsection (1) of this section. The plan must be the product of an ongoing process that involves representatives of significant transportation interests and the general public from across the state. Every four years, the plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation(~~, prior to each regular session of the legislature during an even-numbered year thereafter. The plan shall be subject to the approval of the legislature in the biennial transportation budget act~~).

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities:

(5) By December 2007, the office of financial management shall submit a baseline report on the progress toward attaining the policy goals under RCW 47.01.012 (as recodified by this act) in the 2005-2007 fiscal biennium. By October 1, 2008, beginning with the development of the 2009-2011 biennial transportation budget, and by October 1st biennially thereafter, the office of financial management shall submit to the legislature and the governor a report on the progress toward the attainment by state transportation agencies of the state transportation policy goals and objectives prescribed by statute, appropriation, and governor directive. The report must, at a minimum, include the degree to which state transportation programs have progressed toward the attainment of the policy goals established under RCW 47.01.012 (as recodified by this act), as measured by the objectives and performance measures established by the office of financial management under RCW 47.01.012 (as recodified by this act);

(6) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;

~~((6))~~ (7) To adopt such rules as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

~~((7))~~ (8) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;

~~((8))~~ (9) To conduct transportation-related studies and policy analysis to the extent directed by the legislature or governor in the biennial transportation budget act, or as otherwise provided in law, and subject to the availability of amounts appropriated for this specific purpose; and

~~((9))~~ (10) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.

Sec. 5. RCW 47.01.075 and 2006 c 334 s 4 are each amended to read as follows:

(1) The transportation commission shall provide a public forum for the development of transportation policy in Washington state to include coordination with regional transportation planning organizations, transportation stakeholders, counties, cities, and citizens. (~~It may recommend to the secretary of transportation, the governor, and the legislature means for obtaining appropriate citizen and professional involvement in all transportation policy formulation and other matters related to the powers and duties of the department. It may further hold hearings and explore ways to improve the mobility of the citizenry-~~) At least every five years, the commission shall convene regional forums to gather citizen input on transportation issues. The commission shall consider the input gathered at the forums as it establishes the statewide transportation plan under RCW 47.01.071(4).

(2) (~~Every two years, in coordination with the development of the state biennial budget, the commission shall prepare the~~

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~~statewide multimodal transportation progress report and propose to the office of financial management transportation priorities for the ensuing biennium. The report must:~~

- ~~(a) Consider the citizen input gathered at the forums;~~
- ~~(b) Be developed with the assistance of state transportation-related agencies and organizations;~~
- ~~(c) Be developed with the input from state, local, and regional jurisdictions, transportation service providers, key transportation stakeholders, and the office of financial management;~~
- ~~(d) Be considered by the secretary of transportation and other state transportation-related agencies in preparing proposed agency budgets and executive request legislation;~~
- ~~(e) Be submitted by the commission to the governor and the legislature by October 1st of each even-numbered year for consideration by the governor.~~

~~(3)) In fulfilling its responsibilities under this section, the commission may create ad hoc committees or other such committees of limited duration as necessary.~~

~~((4)) (3) In order to promote a better transportation system, the commission ((shall)) may offer policy guidance and make recommendations to the governor and the legislature in key issue areas, including but not limited to:~~

- ~~(a) Transportation finance;~~
- ~~(b) Preserving, maintaining, and operating the statewide transportation system;~~
- ~~(c) Transportation infrastructure needs;~~
- ~~(d) Promoting best practices for adoption and use by transportation-related agencies and programs;~~
- ~~(e) Transportation efficiencies that will improve service delivery and/or coordination;~~
- ~~(f) Improved planning and coordination among transportation agencies and providers; and~~
- ~~(g) Use of intelligent transportation systems and other technology-based solutions((-and~~
- ~~(h) Reporting of performance against goals, targets, and benchmarks)).~~

NEW SECTION. Sec. 6. A new section is added to chapter 47.01 RCW to read as follows:

To support achievement of the policy goals described in RCW 47.01.012, the department shall:

- (1) Maintain an inventory of the condition of structures and corridors, and maintain a list of those structures and corridors in most urgent need of retrofit or rehabilitation;
- (2) Develop long-term financing plans that sustainably support ongoing maintenance and preservation of the transportation infrastructure;
- (3) Balance system safety and convenience through all phases of a project to accommodate all users of the transportation system, including vehicles, freight, pedestrians, bicyclists, and transit users, to safely, reliably, and efficiently provide mobility to people and goods;
- (4) Develop strategies to gradually reduce the per capita vehicle miles traveled based on consideration of a range of reduction methods including, but not limited to: Consideration of enhancements to and expansion of public transportation options; transportation demand management; bicycle and pedestrian infrastructure; vanpool and carpool programs; incentive programs; and innovative design approaches;
- (5) Utilize efficiency tools, including high-occupancy vehicle and high-occupancy toll lanes, corridor-specific and systemwide pricing strategies, active traffic management, commute trip reduction, and other demand management tools;
- (6) Promote integrated multimodal planning, incorporating a variety of modal approaches; and
- (7) Select engineers and architects to design environmentally sustainable, context-sensitive transportation systems that are integrated into the communities they serve.

Sec. 7. RCW 47.05.030 and 2006 c 334 s 45 are each amended to read as follows:

- (1) The ~~((transportation commission))~~ office of financial management shall ~~((develop))~~ propose a comprehensive ten-year investment program ~~((specifying program objectives and performance measures))~~ for the preservation and improvement programs defined in this section, consistent with the policy goals

~~described under RCW 47.01.012 (as recodified by this act). The ((adopted)) proposed ten-year investment program must be forwarded as a recommendation ((to)) by the ((governor and)) office of financial management to the legislature, and ((is subject to the approval of the legislature in the biennial transportation budget act. In the specification of investment program objectives and performance measures, the transportation commission, in consultation with the Washington state department of transportation, shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The analysis process must ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. The investment program)) must be based upon the needs identified in the ((state-owned highway component of the)) statewide ~~((comprehensive))~~ transportation plan established under RCW 47.01.071(4).~~

~~((4)) (2) The preservation program consists of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life cycle costing. ((The preservation program must require use of the most cost-effective pavement surfaces, considering:~~

- ~~(a) Life-cycle cost analysis;~~
- ~~(b) Traffic volume;~~
- ~~(c) Subgrade soil conditions;~~
- ~~(d) Environmental and weather conditions;~~
- ~~(e) Materials available; and~~
- ~~(f) Construction factors.~~

~~The comprehensive ten-year investment program for preservation must identify projects for two years and an investment plan for the remaining eight years.~~

~~(2)) (3) The improvement program consists of investments needed to address identified deficiencies on the state highway system to ((increase mobility, address congestion, and improve safety, support for the economy, and protection of the environment. The ten-year investment program for improvements must identify projects for two years and major deficiencies proposed to be addressed in the ten-year period giving consideration to relative benefits and life cycle costing. The transportation commission shall give higher priority for correcting identified deficiencies on those facilities classified as facilities of statewide significance as defined in RCW 47.06.140. Project prioritization must be based primarily upon cost-benefit analysis, where appropriate)) meet the goals established in RCW 47.01.012 (as recodified by this act).~~

Sec. 8. RCW 47.05.035 and 2006 c 334 s 46 are each amended to read as follows:

(1) The department shall use the transportation demand modeling tools developed under subsection (2) of this section to evaluate investments based on the best mode or improvement, or mix of modes and improvements, to meet current and future long-term demand within a corridor or system for the lowest cost. The end result of these demand modeling tools is to provide a cost-benefit analysis by which the department can determine the relative mobility improvement and congestion relief each mode or improvement under consideration will provide and the relative investment each mode or improvement under consideration will need to achieve that relief.

(2) The department will participate in the refinement, enhancement, and application of existing transportation demand modeling tools to be used to evaluate investments. This participation and use of transportation demand modeling tools will be phased in.

~~((3) In developing program objectives and performance measures, the department shall evaluate investment trade-offs between the preservation and improvement programs. In making these investment trade-offs, the department shall evaluate, using cost-benefit techniques, roadway and bridge maintenance activities as compared to roadway and bridge preservation program activities and adjust those programs accordingly.~~

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~~—(4) The department shall allocate the estimated revenue between preservation and improvement programs giving primary consideration to the following factors:~~

~~—(a) The relative needs in each of the programs and the system performance levels that can be achieved by meeting these needs;~~

~~—(b) The need to provide adequate funding for preservation to protect the state's investment in its existing highway system;~~

~~—(c) The continuity of future transportation development with those improvements previously programmed; and~~

~~—(d) The availability of dedicated funds for a specific type of work.~~

~~—(5) The department shall consider the findings in this section in the development of the ten-year investment program.)~~

Sec. 9. RCW 47.06.020 and 1993 c 446 s 2 are each amended to read as follows:

The specific role of the department in transportation planning ~~((shall))~~ must be, consistent with the policy goals described under RCW 47.01.012 (as recodified by this act): (1) Ongoing coordination and development of statewide transportation policies that guide all Washington transportation providers; (2) ongoing development of a statewide multimodal transportation plan that includes both state-owned and state-interest facilities and services; (3) coordinating the state high-capacity transportation planning and regional transportation planning programs; ~~((and))~~ (4) conducting special transportation planning studies that impact state transportation facilities or relate to transportation facilities and services of statewide significance; and (5) assisting the transportation commission in the development of the statewide transportation plan required under RCW 47.01.071(4). Specific requirements for each of these state transportation planning components are described in this chapter.

Sec. 10. RCW 47.06.050 and 2002 c 5 s 413 are each amended to read as follows:

The state-owned facilities component of the statewide multimodal transportation plan shall consist of:

(1) The state highway system plan, which identifies program and financing needs and recommends specific and financially realistic improvements to preserve the structural integrity of the state highway system, ensure acceptable operating conditions, and provide for enhanced access to scenic, recreational, and cultural resources. The state highway system plan shall contain the following elements:

(a) A system preservation element, which shall establish structural preservation objectives for the state highway system including bridges, identify current and future structural deficiencies based upon analysis of current conditions and projected future deterioration, and recommend program funding levels and specific actions necessary to preserve the structural integrity of the state highway system consistent with adopted objectives. Lowest life cycle cost methodologies must be used in developing a pavement management system. This element shall serve as the basis for the preservation component of the six-year highway program and the two-year biennial budget request to the legislature;

(b) A highway maintenance element, establishing service levels for highway maintenance on state-owned highways ~~((that meet benchmarks established by the transportation commission))~~. The highway maintenance element must include an estimate of costs for achieving those service levels over twenty years. This element will serve as the basis for the maintenance component of the six-year highway program and the two-year biennial budget request to the legislature;

(c) A capacity and operational improvement element, which shall establish operational objectives, including safety considerations, for moving people and goods on the state highway system, identify current and future capacity, operational, and safety deficiencies, and recommend program funding levels and specific improvements and strategies necessary to achieve the operational objectives. In developing capacity and operational improvement plans the department shall first assess strategies to enhance the operational efficiency of the existing system before recommending system expansion. Strategies to enhance the operational efficiencies include but are

not limited to access management, transportation system management, demand management, and high-occupancy vehicle facilities. The capacity and operational improvement element must conform to the state implementation plan for air quality and be consistent with regional transportation plans adopted under chapter 47.80 RCW, and shall serve as the basis for the capacity and operational improvement portions of the six-year highway program and the two-year biennial budget request to the legislature;

(d) A scenic and recreational highways element, which shall identify and recommend designation of scenic and recreational highways, provide for enhanced access to scenic, recreational, and cultural resources associated with designated routes, and recommend a variety of management strategies to protect, preserve, and enhance these resources. The department, affected counties, cities, and towns, regional transportation planning organizations, and other state or federal agencies shall jointly develop this element;

(e) A paths and trails element, which shall identify the needs of nonmotorized transportation modes on the state transportation systems and provide the basis for the investment of state transportation funds in paths and trails, including funding provided under chapter 47.30 RCW.

(2) The state ferry system plan, which shall guide capital and operating investments in the state ferry system. The plan shall establish service objectives for state ferry routes, forecast travel demand for the various markets served in the system, develop strategies for ferry system investment that consider regional and statewide vehicle and passenger needs, support local land use plans, and assure that ferry services are fully integrated with other transportation services. The plan must provide for maintenance of capital assets. The plan must also provide for preservation of capital assets based on lowest life cycle cost methodologies. The plan shall assess the role of private ferries operating under the authority of the utilities and transportation commission and shall coordinate ferry system capital and operational plans with these private operations. The ferry system plan must be consistent with the regional transportation plans for areas served by the state ferry system, and shall be developed in conjunction with the ferry advisory committees.

Sec. 11. RCW 47.06.140 and 1998 c 171 s 7 are each amended to read as follows:

The legislature declares the following transportation facilities and services to be of statewide significance: Highways of statewide significance as designated by the legislature under chapter 47.05 RCW, the interstate highway system, interregional state principal arterials including ferry connections that serve statewide travel, intercity passenger rail services, intercity high-speed ground transportation, major passenger intermodal terminals excluding all airport facilities and services, the freight railroad system, the Columbia/Snake navigable river system, marine port facilities and services that are related solely to marine activities affecting international and interstate trade, and high-capacity transportation systems serving regions as defined in RCW 81.104.015. The department, in cooperation with regional transportation planning organizations, counties, cities, transit agencies, public ports, private railroad operators, and private transportation providers, as appropriate, shall plan for improvements to transportation facilities and services of statewide significance in the statewide multimodal transportation plan. Improvements to facilities and services of statewide significance identified in the statewide multimodal transportation plan, or to highways of statewide significance designated by the legislature under chapter 47.05 RCW, are essential state public facilities under RCW 36.70A.200.

The department of transportation, in consultation with local governments, shall set level of service standards for state highways and state ferry routes of statewide significance. Although the department shall consult with local governments when setting level of service standards, the department retains authority to make final decisions regarding level of service standards for state highways and state ferry routes of statewide significance. In establishing level of service standards for state highways and state ferry routes of statewide significance, the department shall consider the necessary balance between

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providing for the free interjurisdictional movement of people and goods and the needs of local communities using these facilities.

Sec. 12. RCW 35.95A.120 and 2003 c 147 s 14 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the city transportation authority may be dissolved by a vote of the people residing within the boundaries of the authority if the authority is faced with significant financial problems. However, the authority may covenant with holders of its bonds that it may not be dissolved and shall continue to exist solely for the purpose of continuing to levy and collect any taxes or assessments levied by it and pledged to the repayment of debt and to take other actions, including the appointment of a trustee, as necessary to allow it to repay any remaining debt. No such debt may be incurred by the authority on a project until thirty days after a final environmental impact statement on that project has been issued as required by chapter 43.21C RCW. The amount of the authority's initial bond issue is limited to the amount of the project costs in the subsequent two years as documented by a certified engineer or by submitted bids, plus any reimbursable capital expenses already incurred at the time of the bond issue. The authority may size the first bond issue consistent with the internal revenue service five-year spend down schedule if an independent financial advisor recommends such an approach is financially advisable. Any referendum petition to dissolve the city transportation authority must be filed with the city council and contain provisions for dissolution of the authority. Within seven days, the city prosecutor must review the validity of the petition and submit its report to the petitioner and city council. If the petitioner's claims are deemed valid by the city prosecutor, within ten days of the petitioner's filing, the city council will confer with the petitioner concerning the form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title must be posed as a question and an affirmative vote on the measure results in authority retention and a negative vote on the measure results in the authority's dissolution. The petitioner will be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner has ninety days in which to secure on petition forms, the signatures of not less than fifteen percent of the registered voters in the authority area and to file the signed petitions with the filing officer. Each petition form must contain the ballot title and the full text of the measure to be referred. The filing officer will verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the filing officer shall submit the initiative to the authority area voters at a general or special election held on one of the dates provided in RCW ((29.13.010) 29A.04.321 as determined by the city council, which election will not take place later than one hundred twenty days after the signed petition has been filed with the filing officer.

(2) A city transportation authority is dissolved and terminated if all of the following events occur before or after the effective date of this section:

(a) A majority of the qualified electors voting at a regular or special election determine that new public monorail transportation facilities must not be built;

(b) The governing body of the authority adopts a resolution and publishes a notice of the proposed dissolution at least once every week for three consecutive weeks in a newspaper of general circulation published in the authority area. The resolution and notice must:

(i) Describe information that must be included in a notice of claim against the authority including, but not limited to, any claims for refunds of special motor vehicle excise tax levied under RCW 35.95A.080 and collected by or on behalf of the authority;

(ii) Provide a mailing address where a notice of claim may be sent;

(iii) State the deadline, which must be at least ninety days from the date of the third publication, by which the authority must receive a notice of claim; and

(iv) State that a claim will be barred if a notice of claim is not received by the deadline;

(c) The authority resolves all claims timely made under (b) of this subsection; and

(d) The governing body adopts a resolution (i) finding that the conditions of (a) through (c) of this subsection have been met and (ii) dissolving and terminating the authority.

(3) A claim against a city transportation authority is barred if (a) a claimant does not deliver a notice of claim to the authority by the deadline stated in subsection (2)(b)(iii) of this section or (b) a claimant whose claim was rejected by the authority does not commence a proceeding to enforce the claim within sixty days from receipt of the rejection notice. For purposes of this subsection, "claim" includes, but is not limited to, any right to payment, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, or the right to an equitable remedy for breach of performance if the breach gives rise to a right to payment, whether or not the right to an equitable remedy is fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, including, but not limited to, any claim for a refund of special motor vehicle excise tax levied under RCW 35.95A.080 and collected by or on behalf of the authority.

(4) The governing body of the authority may transfer any net assets to one or more other political subdivisions with instructions as to their use or disposition. The governing body shall authorize this transfer in the resolution that dissolves and terminates the authority under subsection (2)(d) of this section.

(5) Upon the dissolution and termination of the authority, the former officers, directors, employees, and agents of the authority shall be immune from personal liability in connection with any claims brought against them arising from or relating to their service to the authority, and any claim brought against any of them is barred.

(6) Upon satisfaction of the conditions set forth in subsection (2)(a) and (b) of this section, the terms of all members of the governing body of the city transportation authority, whether elected or appointed, who are serving as of the date of the adoption of the resolution described in subsection (2)(b) of this section, shall be extended, and incumbent governing body members shall remain in office until dissolution of the authority, notwithstanding any provision of any law to the contrary.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) RCW 47.01.370 (Review of performance and outcome measures of transportation-related agencies--Definition) and 2006 c 334 s 44;

(2) RCW 47.05.051 (Ten-year comprehensive investment program--Priority selection criteria--Improvement program criteria) and 2006 c 334 s 47, 2005 c 319 s 11, 2002 c 189 s 3, 2002 c 5 s 406, 1998 c 175 s 12, 1993 c 490 s 5, 1987 c 179 s 5, 1979 ex.s. c 122 s 5, & 1975 1st ex.s. c 143 s 4; and

(3) RCW 47.06.030 (Transportation policy plan) and 1997 c 369 s 8 and 1993 c 446 s 3.

NEW SECTION. Sec. 14. RCW 47.01.012 is recodified as a section in chapter 47.04 RCW."

Correct the title, and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5412 and ask the House to recede therefrom.

Senators Haugen and Swecker spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5412 and ask the House to recede therefrom.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5412 and asked the House to recede therefrom.

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MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5627, with the following amendment: 5627-S2.E AMH ENGR H3528.E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The state's definition of basic education and the corresponding funding formulas must be regularly updated in order to keep pace with evolving educational practices and increasing state and federal requirements and to ensure that all schools have the resources they need to help give all students the opportunity to be fully prepared to compete in a global economy. The work of Washington learns steering committee and the K-12 advisory committee provides a valuable starting point from which to evaluate the current educational system and develop a unique, transparent, and stable educational funding system for Washington that supports the goals and the vision of a world-class learner-focused K-12 educational system that were established in the final Washington learns report.

This act is intended to make provision for some significant steps towards a new basic education funding system and establishes a joint task force to address the details and next steps beyond the 2007-2009 biennium that will be necessary to implement a new comprehensive K-12 finance formula or formulas that will provide Washington schools with stable and adequate funding as the expectations for the K-12 system continue to evolve.

NEW SECTION. Sec. 2. (1) The joint task force on basic education finance established under this section, with research support from the Washington state institute for public policy, shall review the definition of basic education and all current basic education funding formulas, develop options for a new funding structure and all necessary formulas, and propose a new definition of basic education that is realigned with the new expectations of the state's education system as established in the November 2006 final report of the Washington learns steering committee and the basic education provisions established in chapter 28A.150 RCW.

(2) The joint task force on basic education finance shall consist of fourteen members:

(a) A chair of the task force with experience with Washington finance issues including knowledge of the K-12 funding formulas, appointed by the governor;

(b) Eight legislators, with two members from each of the two largest caucuses of the senate appointed by the president of the senate and two members from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives;

(c) A representative of the governor's office or the office of financial management, designated by the governor;

(d) The superintendent of public instruction or the superintendent's designee; and

(e) Three individuals with significant experience with Washington K-12 finance issues, including the use and application of the current basic education funding formulas, appointed by the governor. Each of the two largest caucuses of the house of representatives and the senate may submit names to the governor for consideration.

(3) In conducting research directed by the task force and developing options for consideration by the task force, the Washington state institute for public policy shall consult with stakeholders and experts in the field. The institute may also request assistance from the legislative evaluation and accountability program committee, the office of the superintendent of public instruction, the office of financial management, the house office of program research, and senate committee services.

(4) In developing recommendations, the joint task force shall review and build upon the following:

(a) Reports related to K-12 finance produced at the request of or as a result of the Washington learns study, including reports completed for or by the K-12 advisory committee;

(b) High-quality studies that are available; and

(c) Research and evaluation of the cost-benefits of various K-12 programs and services developed by the institute as directed by the legislature in section 607(15), chapter 372, Laws of 2006.

(5) The Washington state institute for public policy shall provide the following reports to the joint task force:

(a) An initial report by September 15, 2007, proposing an initial plan of action, reporting dates, timelines for fulfilling the requirements of section 3 of this act, and an initial timeline for a phased-in implementation of a new funding system that does not exceed six years;

(b) A second report by December 1, 2007, including implementing legislation as necessary, for at least two but no more than four options for allocating school employee compensation. One of the options must be a redirection and prioritization within existing resources based on research-proven education programs. The report must also include a projection of the expected effect of the investment made under the new funding structure. The second report shall also include a finalized timeline and plan for addressing the remaining components of a new funding system; and

(c) A final report with at least two but no more than four options for revising the remaining K-12 funding structure, including implementing legislation as necessary, and a timeline for phasing in full adoption of the new funding structure. The final report shall be submitted to the joint task force by September 15, 2008. One of the options must be a redirection and prioritization within existing resources based on research-proven education programs. The final report must also include a projection of the expected effect of the investment made under the new funding structure.

NEW SECTION. Sec. 3. (1) The funding structure alternatives developed by the joint task force under section 2 of this act shall take into consideration the legislative priorities in this section, to the maximum extent possible and as appropriate to each formula.

(2) The funding structure should reflect the most effective instructional strategies and service delivery models and be based on research-proven education programs and activities with demonstrated cost benefits. In reviewing the possible strategies and models to include in the funding structure the task force shall, at a minimum, consider the following issues:

(a) Professional development for all staff;

(b) Voluntary all-day kindergarten;

(c) Optimum class size, including different class sizes based on grade level and ways to reduce class size;

(d) Focused instructional support for students and schools;

(e) Extended school day and school year options; and

(f) Health and safety requirements.

(3) The recommendations should provide maximum transparency of the state's educational funding system in order to better help parents, citizens, and school personnel in Washington understand how their school system is funded.

(4) The funding structure should be linked to accountability for student outcomes and performance.

(5) The task force shall recommend a compensation system for instructional staff that includes pay for performance, knowledge, and skills elements; elements to recognize assignments that are difficult; and recognition for the professional teaching level certificate in the salary allocation model. The task force shall also recommend a plan to implement the revised compensation system.

NEW SECTION. Sec. 4. As the joint task force considers a new definition of basic education as required under section 2 of this act, the task force shall consider the following proposed basic education goals and shall make recommendations regarding whether the proposed goals provide adequate guidance and vision for the state's education system in the twenty-first century:

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"The goal of the basic education act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand diverse perspectives, to enjoy productive and satisfying lives, and to develop a public school system that focuses on the educational achievement of all students, which includes high expectations for and prepares students to achieve personal and academic success. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

(1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; world history, cultures, and geography; civics and arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems;

(4) Understand the importance of work and personal financial literacy and how performance, effort, and decisions directly affect future career and educational opportunities; and

(5) Understand and be fully prepared to exercise the responsibilities of civic participation in a pluralistic society.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5627 and ask the House to recede therefrom.

Senators McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5627 and ask the House to recede therefrom.

The motion by Senator McAuliffe carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5627 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5790, with the following amendment: 5790-S2 AMH QUAL H3351.2; 5790-S2 AMH COLV 029

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that student access to programs offered at skill centers can help prepare them for careers, apprenticeships, and postsecondary education. The legislature further finds that current limits on how school districts and skill centers report full-time equivalent students and the time students are served provide a disincentive for school districts to send their students to skill centers. The legislature further finds that there are barriers to providing access to students in rural and remote areas but that there are opportunities to do so with satellite and branch campus programs, distance and online learning programs, and collaboration with higher education, business, and labor. The legislature further finds that skill centers provide opportunities

for dropout prevention and retrieval programs by offering programs that accommodate students' work schedules and provide credit retrieval opportunities. The legislature further finds that implementing the recommendations from the study by the workforce training and education coordinating board will enhance skill center programs and student access to those programs.

NEW SECTION. Sec. 2. A skill center is a regional career and technical education partnership established to provide access to comprehensive industry-defined career and technical programs of study that prepare students for careers, employment, apprenticeships, and postsecondary education. A skill center is operated by a host school district and governed by an administrative council in accordance with a cooperative agreement.

NEW SECTION. Sec. 3. Beginning in the 2007-08 school year and thereafter, students attending skill centers shall be funded for all classes at the skill center and the sending districts, up to two full-time equivalents. The office of the superintendent of public instruction shall develop procedures to ensure that the school district and the skill center report no student for more than two full-time equivalent students combining both their high school enrollment and skill center enrollment.

NEW SECTION. Sec. 4. (1) The office of the superintendent of public instruction shall review and revise the guidelines for skill centers to encourage skill center programs. The superintendent, in cooperation with the workforce training and education coordinating board, skill center directors, and the Washington association for career and technical education, shall review and revise the existing skill centers' policy guidelines and create and adopt rules governing skill centers as follows:

(a) The threshold enrollment at a skill center shall be revised so that a skill center program need not have a minimum of seventy percent of its students enrolled on the skill center core campus in order to facilitate serving rural students through expansion of skill center programs by means of satellite programs or branch campuses;

(b) The developmental planning for branch campuses shall be encouraged. Underserved rural areas or high-density areas may partner with an existing skill center to create satellite programs or a branch campus. Once a branch campus reaches sufficient enrollment to become self-sustaining, it may become a separate skill center or remain an extension of the founding skill center; and

(c) Satellite and branch campus programs shall be encouraged to address high-demand fields.

(2) Rules adopted under this section shall allow for innovative models of satellite and branch campus programs, and such programs shall not be limited to those housed in physical buildings.

(3) The superintendent of public instruction shall develop and deliver a ten-year capital plan for legislative review before implementation.

(4) Subject to available funding, the superintendent shall:

(a) Conduct approved feasibility studies for serving noncooperative rural and high-density area students in their geographic areas; and

(b) Develop a statewide master plan that identifies standards and resources needed to create a technology infrastructure for connecting all skill centers to the K-20 network.

NEW SECTION. Sec. 5. Subject to available funding, skill centers shall provide access to late afternoon and evening sessions and summer school programs, to rural and high-density area students aligned with regionally identified high-demand occupations. When possible, the programs shall be specifically targeted for credit retrieval, dropout prevention and intervention for at-risk students, and retrieval of dropouts. Skill centers that receive funding for these activities must participate in an evaluation that is designed to quantify results and identify best practices, collaborate with local community partners in providing a comprehensive program, and provide matching funds.

NEW SECTION. Sec. 6. (1) The superintendent of public instruction shall establish and support skill centers of excellence in key economic sectors of regional significance. The

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superintendent shall broker the development of skill centers of excellence and identify their roles in developing curriculum and methodologies for reporting skill center course equivalencies for purposes of high school graduation.

(2) Once the skill centers of excellence are established, the superintendent of public instruction shall develop and seek funding for a running start for career and technical education grant program to develop and implement career and technical programs of study targeted to regionally determined high-demand occupations. Grant recipients should be partnerships of skill centers of excellence, community college centers of excellence, tech-prep programs, industry advisory committees, area workforce development councils, and skill panels in the related industry. Grant recipients should be expected to develop and assist in the replication of model career and technical education programs of study. The career and technical education programs of study developed should be consistent with the expectations in the applicable federal law.

NEW SECTION. Sec. 7. The superintendent of public instruction shall assign at least one full-time equivalent staff position within the office of the superintendent of public instruction to serve as the director of skill centers.

Sec. 8. RCW 84.52.068 and 2005 c 514 s 1104 are each amended to read as follows:

(1) A portion of the proceeds of the state property tax levy shall be deposited into the student achievement fund as provided in this section.

(2)(a) The amount of the deposit shall be based upon the average number of full-time equivalent students in the school districts during the previous school year as reported to the office of the superintendent of public instruction by August 31st of the previous school year.

(b) For the 2004-2005 through 2007-2008 school years, an annual amount equal to two hundred fifty-four dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund.

(c) For the 2008-2009 school year, an annual amount equal to two hundred sixty-five dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund.

(d) For the 2009-2010 school year, an annual amount equal to two hundred seventy-seven dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund.

(e) For the 2010-2011 school year and each year thereafter, an annual amount equal to two hundred seventy-eight dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund.

(f) The school district annual amounts shall be deposited based on the monthly apportionment schedule as defined in RCW 28A.510.250. The office of the superintendent of public instruction shall notify the department of the monthly amounts to be deposited into the student achievement fund to meet the apportionment schedule. The superintendent of public instruction shall ensure that moneys generated by skill center students is returned to skill centers.

NEW SECTION. Sec. 9. Sections 2 through 7 of this act constitute a new chapter in Title 28A RCW."

On page 2, line 12, after "up to" strike "one and four-tenths" and insert "two" and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5790 and ask the House to recede therefrom.

Senators Prentice spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Prentice that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5790 and ask the House to recede therefrom.

The motion by Senator Prentice carried and the Senate

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refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 5790 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5841, with the following amendment: 5841-S2.E AMH ENGR H3491.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.210 and 1993 c 336 s 101 are each amended to read as follows:

~~((The goal of the Basic Education Act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for all students to develop the knowledge and skills essential to:~~

~~— (1) Read with comprehension, write with skill, and communicate effectively and responsibly in a variety of ways and settings;~~

~~— (2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history; geography; arts; and health and fitness;~~

~~— (3) Think analytically, logically, and creatively, and to integrate experience and knowledge to form reasoned judgments and solve problems; and~~

~~— (4) Understand the importance of work and how performance, effort, and decisions directly affect future career and educational opportunities;))~~

The goal of the basic education act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand diverse perspectives, to enjoy productive and satisfying lives, and to develop a public school system that focuses on the educational achievement of all students, which includes high expectations for and prepares students to achieve personal and academic success. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

— (1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

— (2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; world history, cultures, and geography; civics and arts; and health and fitness;

— (3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems;

— (4) Understand the importance of work and personal financial literacy and how performance, effort, and decisions directly affect future career and educational opportunities; and

— (5) Understand and be fully prepared to exercise the responsibilities of civic participation in a pluralistic society.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.150 RCW to read as follows:

ALL-DAY KINDERGARTEN PROGRAMS--FUNDING.
(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for

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funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

(a) Provide at least a one thousand-hour instructional program;

(b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:

(i) Developing initial skills in the academic areas of reading, mathematics, and writing;

(ii) Developing a variety of communication skills;

(iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;

(iv) Acquiring large and small motor skills;

(v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(vi) Learning through hands-on experiences;

(c) Establish learning environments that are developmentally appropriate and promote creativity;

(d) Demonstrate strong connections and communication with early learning community providers; and

(e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

(3) Any funds allocated to support all-day kindergarten programs under this section shall not be considered as basic education funding.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.630 RCW to read as follows:

PRIMARY LEVEL EDUCATION PROJECTS. Subject to funds appropriated for the purposes of this section:

(1) Four demonstration projects are authorized for schools serving kindergarten through third grade students to develop, implement, and document the effects of a comprehensive K-3 foundations program. At least two demonstration projects shall be in schools that are participating in the public-private early learning partnerships in the Highline and Yakima school districts. A third demonstration project shall be in the Spokane school district.

(2) The superintendent of public instruction shall select project participants based on the criteria in this section, the commitment to a school-wide program, and the degree to which applicants articulate an understanding of development and implementation of a comprehensive K-3 foundations program.

(3) Successful school applicants shall:

(a) Demonstrate that there is engaged and committed school and district leadership and support for the project;

(b) Demonstrate that school staff is engaged and committed and believes in high expectations for all students;

(c) Have a history of successfully using data to guide decision making for students and the program;

(d) Plan for the use of staff learning improvement days to support project implementation;

(e) Demonstrate successful linkages with the early learning providers in their communities;

(f) Outline the steps taken to develop this application and the general plan for implementation of a comprehensive K-3 foundations program; and

(g) Commit to individualized learning opportunities in early grades by using district resources, such as funding under RCW

28A.505.210, to reduce class sizes in grades kindergarten through three.

(4) Program resources provided to demonstration projects are:

(a) Support to implement an all-day kindergarten program;

(b) Support for class sizes at a ratio of one teacher to eighteen students, and the additional resources for materials generated by that ratio through associated nonemployee-related costs;

(c) Support for a one-half full-time equivalent instructional coach; and

(d) Support for professional development time related to program implementation.

(5) Demonstration projects shall provide:

(a) A program that implements an educational philosophy that supports child-centered learning;

(b) Learning opportunities through personal exploration and discovery, hands-on experiences, and by working independently, in small groups and in large groups;

(c) Rich and varied subject matter that includes: Reading, writing, mathematics, science, social studies, a world language other than English, the arts, and health and physical education;

(d) Opportunities to learn and feel accomplishment, diligence, creativity, and confidence;

(e) Social and emotional development opportunities;

(f) Personalized assessment for each student that addresses academic knowledge and skill development, social and emotional skill development, critical thinking and decision-making skills, large and fine motor skill development, and knowledge of personal interests, strengths, and goals;

(g) For students to progress to the upper elementary grades when a solid foundation is in place and reading and mathematics primary skills have been mastered;

(h) Class sizes that do not exceed one certificated instructional staff to eighteen students; and

(i) Cooperation with project evaluators in an evaluation of the demonstration projects, including providing the data necessary to complete the work.

(6) The office of the superintendent of public instruction shall contract with the Northwest regional educational laboratory to conduct an evaluation of the demonstration projects under this section. Student, staff, program, and parent data shall be collected using various instruments including surveys, program and activity descriptions, student performance measures, observations, and other processes.

(7) Within available funding, findings from the evaluation under this section shall include conclusions regarding the degree to which students thrive in the education environment; student progress in academic, social, and emotional areas; the program components that have been most important to student success; the degree to which educational staff feel accomplished in their work and satisfied with student progress; and recommendations for continued implementation and expansion of the program.

(8) Findings shall be reported to the governor, the office of the superintendent of public instruction, and the appropriate early learning, education, and fiscal committees of the legislature. An interim report is due November 1, 2008. The final report is due December 1, 2009.

(9) This section expires September 1, 2010.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.630 RCW to read as follows:

ENGLISH AS A SECOND LANGUAGE PROJECTS. (1) The goals of the English as a second language demonstration project are to develop recommendations:

(a) Identifying foundational competencies for developing academic English skills in English language learner students that all teachers should acquire in initial teacher preparation programs;

(b) Identifying components of a professional development program that builds classroom teacher competence for developing academic English skills in English language learner students; and

(c) Identifying job-embedded practices that connect the English language learner teacher and classroom teachers to coordinate instruction to support the work of the student.

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(2) The English as a second language demonstration project shall use two field strategies in the development of recommendations.

(a) The first strategy is to conduct a field study of an ongoing project in a number of schools and school districts in which Spanish is the predominate language other than English.

(b) The second strategy is to conduct a project that provides professional development and planning time resources to approximately three large schools in which there are many first languages among the students. The participants of this project shall partner with an institution of higher education or a professional development provider with expertise in supporting student acquisition of academic English. The superintendent of public instruction shall select the participants in the project under this subsection (2)(b).

(3)(a) The office of the superintendent of public instruction shall contract with the Northwest regional educational laboratory to conduct the field study work and collect additional information from the project schools. In conducting its work, the laboratory shall review current literature regarding best practices and consult with state and national experts as appropriate.

(b) The laboratory shall report its findings to the governor, the office of the superintendent of public instruction, and the education and fiscal committees of the legislature. An interim report is due November 1, 2008. The final report is due December 1, 2009.

(4) This section expires September 1, 2010.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.215 RCW to read as follows:

COMMUNITY LEARNING CENTER PROGRAM. (1)

The Washington community learning center program is established. The program shall be administered by the office of the superintendent of public instruction. The purposes of the program include:

(a) Supporting the creation or expansion of community learning centers that provide students with tutoring and educational enrichment when school is not in session;

(b) Providing training and professional development for community learning center program staff;

(c) Increasing public awareness of the availability and benefits of after-school programs; and

(d) Supporting statewide after-school intermediary organizations in their efforts to provide leadership, coordination, technical assistance, advocacy, and programmatic support to after-school programs throughout the state.

(2)(a) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction may provide community learning center grants to any public or private organization that meets the eligibility criteria of the federal twenty-first century community learning centers program.

(b) Priority may be given to grant requests submitted jointly by one or more schools or school districts and one or more community-based organizations or other nonschool partners.

(c) Priority may also be given to grant requests for after-school programs focusing on improving mathematics achievement, particularly for middle and junior high school students.

(d) Priority shall be given to grant requests that:

(i) Focus on improving reading and mathematics proficiency for students who attend schools that have been identified as being in need of improvement under section 1116 of Title I of the federal no child left behind act of 2001; and

(ii) Include a public/private partnership agreement or proposal for how to provide free transportation for those students in need that are involved in the program.

(3) Community learning center grant funds may be used to carry out a broad array of out-of-school activities that support and enhance academic achievement. The activities may include but need not be limited to:

(a) Remedial and academic enrichment;

(b) Mathematics, reading, and science education;

(c) Arts and music education;

(d) Entrepreneurial education;

(e) Community service;

(f) Tutoring and mentoring programs;

(g) Programs enhancing the language skills and academic achievement of limited English proficient students;

(h) Recreational and athletic activities;

(i) Telecommunications and technology education;

(j) Programs that promote parental involvement and family literacy;

(k) Drug and violence prevention, counseling, and character education programs; and

(l) Programs that assist students who have been truant, suspended, or expelled, to improve their academic achievement.

(4) Each community learning center grant may be made for a maximum of five years. Each grant recipient shall report annually to the office of the superintendent of public instruction on what transportation services are being used to assist students in accessing the program and how those services are being funded. Based on this information, the office of the superintendent of public instruction shall compile a list of transportation service options being used and make that list available to all after-school program providers that were eligible for the community learning center program grants.

(5) To the extent that funding is available for this purpose, the office of the superintendent of public instruction may provide grants or other support for the training and professional development of community learning center staff, the activities of intermediary after-school organizations, and efforts to increase public awareness of the availability and benefits of after-school programs.

(6) Schools or school districts that receive a community learning center grant under this section may seek approval from the office of the superintendent of public instruction for flexibility to use a portion of their state transportation funds for the costs of transporting students to and from the community learning center program.

(7) The office of the superintendent of public instruction shall evaluate program outcomes and report to the governor and the education committees of the legislature on the outcomes of the grants and make recommendations related to program modification, sustainability, and possible expansion. An interim report is due November 1, 2008. A final report is due December 1, 2009.

NEW SECTION. Sec. 6. CAREER PATHWAYS

PROGRAMS. (1) Subject to funds appropriated for this purpose, the superintendent of public instruction shall provide grants to support development of career pathways programs in high-demand fields. A portion of the appropriated funds shall be administered by an experienced nonprofit health organization and be used to create health care career pathways with geographically dispersed high school partnerships. The remaining funds shall be used to provide grants to geographically dispersed high school partnerships to create career pathways in the trades, mechanics and engineering, or other field identified by the partnership as high demand and appropriate to meet the workforce education needs in its region.

(2) To be eligible for a grant, high schools must form partnerships of parents, students, special populations, academic and career and technical education teachers and administrators, workforce development faculty and administrators, career guidance and academic counselors, representatives of tech-prep consortia, local workforce development councils, representatives of local skill centers and local skills panels, apprenticeship councils, and business and labor organizations in the community.

(3) Grant recipients must develop and implement a model curriculum for their selected career pathway. Grant funds shall be used for start-up costs, primarily for the development of the curriculum and assessments described in this section and for professional development for teachers. If sufficient funds remain, grant funds may be used to upgrade equipment within the program to meet industry standards.

(4) A career pathways program shall:

(a) Integrate core academic standards for reading, writing, and mathematics with high-quality career and technical preparation based on accepted industry standards in the field;

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(b) Incorporate secondary and postsecondary education elements;

(c) Be coherent, sequenced, and articulated to community and technical college courses to provide high school students with dual credit for both high school graduation and college, and to prepare students to succeed in postsecondary education programs in the field;

(d) Lead to an industry-recognized credential or certificate at the postsecondary level or an associate or baccalaureate degree; and

(e) Emphasize projects and application of knowledge and skills and provide extensive opportunities for work-based learning and internships.

(5) Students who are struggling with core academic skills, including the Washington assessment of student learning, shall receive supplemental assistance and instruction within the program, including assistance to create a career and technical collection of evidence as an alternative to the Washington assessment of learning.

(6) Participants in a high-demand career pathways program should expect to complete a high school diploma and the appropriate courses in a high-quality career and technical program and graduate ready to pursue postsecondary education.

(7) With assistance from the office of the superintendent of public instruction and the workforce training and education coordinating board, grant recipients shall develop end-of-program assessments for their high-demand career pathways program. The assessments shall be integrated to include academic, work readiness, and technical knowledge and skills. The legislature's intent is to use these assessments as prototypes for possible future additional alternative assessments for career and technical education students to demonstrate they meet the state's learning standards.

(8) Grant recipients must develop a communications strategy for parents and students in other area high schools and middle schools to promote the model career pathways programs as a high-quality learning option for students and prepare plans for replication of the programs.

(9) For the purposes of this section, "career pathways program" has the same meaning as a career and technical program of study under P.L. 109-270, the Carl D. Perkins career and technical education improvement act of 2006.

(10) This section expires July 1, 2009.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.300 RCW to read as follows:

WORLD LANGUAGES. The superintendent of public instruction shall assign at least one full-time equivalent staff position within the office of the superintendent of public instruction to serve as the world language supervisor. The world language supervisor shall have the following duties and responsibilities:

(1) Develop, conduct, and oversee professional development for teachers on grade level expectations, state and national standards, and best practices in instruction for world languages;

(2) Provide technical assistance to schools in designing elementary and middle school language programs, selecting and designing high quality curriculum, and providing professional development;

(3) Advise in the development of online world language courses;

(4) Create a clearinghouse of information and materials to support high quality world language instruction at the elementary and secondary levels;

(5) Secure and implement grants, including federal grants, to enhance world language programs;

(6) Encourage and foster an articulated curriculum for world languages through elementary, secondary, and postsecondary grades;

(7) Establish and maintain a state database for world language course offerings in schools and school districts;

(8) Implement memoranda of understanding with ministries of education in other countries, including interviewing, selecting, securing visas for, and providing orientation for visiting teachers;

(9) Serve in an advisory capacity on committees or work groups regarding teacher certification, advanced placement programs, and textbook publishing and selection; and

(10) Serve as an education liaison with the business, trade, and economic development communities.

NEW SECTION. Sec. 8. Captions used in this act are not any part of the law."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5841 and ask the House to recede therefrom.

Senators Prentice spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Prentice that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5841 and ask the House to recede therefrom.

The motion by Senator Prentice carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5841 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5955, with the following amendment: 5955-S2 AMH ED H3180.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28A.415 RCW to read as follows:

SCHOOL DISTRICT LEADERSHIP ACADEMY. (1) Research supports the value of quality school and school district leadership. Effective leadership is critical to improving student learning and transforming underperforming schools and school districts into world-class learning centers.

(2) A public-private partnership is established to develop, pilot, and implement the Washington state leadership academy to focus on the development and enhancement of personal leadership characteristics and the teaching of effective practices and skills demonstrated by school and district administrators who are successful managers and instructional leaders. It is the goal of the academy to provide state-of-the-art programs and services across the state.

(3) Academy partners include the state superintendent and principal professional associations, private nonprofit foundations, institutions of higher education with approved educator preparation programs, the professional educator standards board, the office of the superintendent of public instruction, educational service districts, the state school business officers' association, and other entities identified by the partners. The partners shall designate an independent organization to act as the fiscal agent for the academy and shall establish a board of directors to oversee and direct the academy's finances, services, and programs. The academy shall be supported by a national research institution with demonstrated expertise in educational leadership.

(4) Initial development of academy course content and activities shall be supported by private funds. Initial tasks of the academy are to:

(a) Finalize a comprehensive design of the academy and the development of the curriculum frameworks for a comprehensive leadership development program that includes coursework, practicum, mentoring, and evaluation components;

(b) Develop curriculum for individual leadership topics;

(c) Pilot the curriculum and all program components; and

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(d) Modify the comprehensive design, curriculum coursework, practicum, and mentoring programs based on the research results gained from pilot activities.

(5) The board of directors shall report semiannually to the superintendent of public instruction on the financial contributions provided by foundations and other organizations to support the work of the academy. The board of directors shall report by December 31st each year to the superintendent of public instruction on the programs and services provided, numbers of participants in the various academy activities, evaluation activities regarding program and participant outcomes, and plans for the academy's future development.

(6) The board of directors shall make recommendations for changes in superintendent and principal preparation programs, the administrator licensure system, and continuing education requirements.

NEW SECTION. Sec. 2. PROFESSIONAL EDUCATOR STANDARDS BOARD DUTIES. (1) The purpose of the duties in this section for the professional educator standards board is to take the next steps in developing quality teaching knowledge and skill in the state's teaching ranks. The duties build upon the current teacher development foundation that requires demonstrated teaching competency, requires evidence of positive impact on student learning, and focuses on furthering state kindergarten through twelfth grade learning goals through instructional skill alignment.

(2) The professional educator standards board shall:

(a) By December 2007:

(i) Adopt new knowledge and skill standards that prepare all individuals seeking residency teacher certification to integrate mathematics across all content areas; and

(ii) Adopt new certification requirements for individuals seeking residency teacher certification as elementary education or middle level and secondary mathematics teachers to assure adequate content and instructional strategy preparation to teach to the kindergarten through twelfth grades state mathematics and science standards;

(b) By June 2009:

(i) Set performance standards and develop, pilot, and implement a uniform and externally administered professional-level certification assessment based on demonstrated teaching skill. In the development of this assessment, consideration shall be given to changes in professional certification program components such as the culminating seminar;

(ii) Summarize its work in the development of the assessment in (b)(i) of this subsection in the annual reports required by RCW 28A.410.240; and

(iii) Review and revise the standards for higher education teacher preparation programs to incorporate updated practices to enhance teacher success in a knowledge and skill-based performance system that emphasizes strong content, applied learning, and personal, meaningful connections with students; and

(c) By December 2009, review and revise as needed teacher preparation standards and requirements to focus on diversity in cultural knowledge and respect.

NEW SECTION. Sec. 3. Sections 3 through 7 of this act represent core components of a comprehensive initiative to improve mathematics, science, and targeted secondary reading education and achievement through educator professional development and support. The initiative focuses on:

(1) A regional delivery system to provide professional development and support to schools and school districts through the educational service districts;

(2) A tiered support system that provides resources, services, assistance, and intervention for schools and districts, depending on their levels of need;

(3) Leveraging existing public and private resources and district-initiated activities; and

(4) Accountability through outcome-oriented performance agreements, contracts, reporting, and data collection.

NEW SECTION. Sec. 4. (1) The mathematics, science, and targeted secondary reading improvement initiative shall provide the capacity and resources for the superintendent of public instruction, educational service districts, school districts, and

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schools to conduct a broad range of activities, depending on the level of need and priority of the school or district. The focus of the initiative is on building and enhancing the quality of mathematics and science instruction.

(2) Activities supported by the initiative include, but are not limited to:

(a) Targeted professional development in content knowledge, content-specific pedagogy, differentiated instruction, effective teaching strategies, learning modules, and mathematics and science standards and curriculum;

(b) Use and analysis of diagnostic assessments and other data on student achievement to improve instruction;

(c) Curriculum alignment and development or purchase of supplemental materials;

(d) Integration of technology; and

(e) Mentors and instructional coaches.

NEW SECTION. Sec. 5. In support of the mathematics, science, and targeted secondary reading improvement initiative, the office of the superintendent of public instruction shall:

(1) Create a partnership with the educational service districts to develop and deliver professional development learning opportunities for educators that fulfill the goals and address the specific targeted activities described in this section. The partnership shall:

(a) Support school districts by providing professional development leadership, courses, and consultation services to school districts in their implementation of the professional development activities described in sections 3 through 7 of this act; and

(b) Support one another in the delivery of state-level and regional-level professional development activities such as state conferences and regional accountability institutes;

(2) Enter into a performance agreement with each educational service district to clearly articulate partner responsibilities and assure fidelity for the delivery of professional development initiatives including job-embedded practices. Components of such performance agreements shall include:

(a) Participation in the development of various professional development workshops, programs, and activities;

(b) Characteristics and qualifications of professional development staff supported by the program;

(c) Methods to ensure consistent delivery of professional development services; and

(d) Reporting responsibilities related to services provided, program participation, outcomes, and recommendations for service improvement;

(3) In collaboration with the educational service districts, develop a methodology for distributing funds appropriated for activities under the tiered support system in section 6 of this act among the educational service districts and among the three tiers of support. The methodology shall take into account the anticipated demand and need for services by school districts in each tier and the size of those school districts. The methodology shall also reflect a higher priority and greater need for support and resources for schools and districts in tier three;

(4) Develop guidelines for educational service districts in administering grants, developing district improvement agreements, and implementing intensive intervention and support services. The guidelines shall not require all educational service districts to follow the same procedures in all circumstances, but shall ensure general equity for school districts across the state in how the districts may access resources under the initiative and the activities and services that are provided by the educational service districts;

(5) Identify the schools and school districts eligible for tier three intensive intervention and support, based on low student performance in mathematics and science. The superintendent shall consider whether the school has the capacity to feasibly integrate additional resources with any existing state or federal improvement funds. To the maximum extent possible, the identification of and the intensive intervention services provided to tier three schools and districts shall align with the accountability plan developed by the state board of education; and

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(6) In collaboration with the educational service districts, develop guidelines and a common reporting format for collecting data and information about the activities and outcomes under the initiative and designate one or more common diagnostic assessments for districts to use in reporting and monitoring student achievement.

NEW SECTION. Sec. 6. Resources for the mathematics, science, and targeted secondary reading improvement initiative shall be provided through the office of the superintendent of public instruction and educational service districts to schools and school districts based on a tiered support system. The legislature's intent is that resources from the mathematics, science, and targeted secondary reading improvement initiative are provided over a four-year period.

(1) Tier one: Initiative grants. School districts may apply on a competitive basis to their educational service district for grants to support activities to improve mathematics, science, and secondary reading instruction. A district may contract with the educational service district for services, use the grant for district-initiated activities, or both. Tier one districts must demonstrate how district resources and resources from public-private partnerships shall be used to leverage the grant funds. Tier one grant recipients must identify measurable outcomes from the activities supported by the grant and report results in a prescribed format, including student achievement data from designated diagnostic assessments.

(2) Tier two: Improvement agreements. School districts may work with the office of the superintendent of public instruction and educational service districts to plan, develop, and implement a mathematics, science, and targeted secondary reading improvement initiative tailored to the needs of the district. The office of the superintendent of public instruction, the educational service district, and the school district shall develop a joint agreement that identifies the services and support to be provided by the educational service district, the activities to be conducted by the district using improvement agreement funds, and the expected measurable outcomes from the activities. Recipients of funds under a tier two improvement agreement must report results of the activities supported by the agreement in a prescribed format, including student achievement data from designated diagnostic assessments.

(3) Tier three: Intensive intervention and support. School districts and schools with low student performance in mathematics, science, and/or secondary reading as identified by the superintendent of public instruction under section 5 of this act are eligible for intensive intervention and support coordinated by the office of the superintendent of public instruction and/or the educational service district. School districts or individual schools may receive tier three support. Recipients of funds under tier three support must:

(a) Participate in an audit of the mathematics, science, and secondary reading instructional delivery system, including policies and practices, curriculum alignment, teacher pedagogy and content knowledge, and assessment of overall climate and practice compared to best practices;

(b) Develop, with assistance from the educational service district, a school or district intervention plan that focuses on areas of highest need and provides intensive professional development in those areas;

(c) Participate in professional development using the services of a technical assistance team that includes a trained and experienced facilitator and mathematics, science, or reading instructional coaches to provide job-embedded professional development; and

(d) Identify measurable outcomes from the activities supported by the grant and report results in a prescribed format, including student achievement data from designated diagnostic assessments.

NEW SECTION. Sec. 7. (1) Educational service districts shall coordinate with the superintendent of public instruction to develop and maintain the capacity to provide administrative, professional development, technical assistance, and intervention services under the mathematics, science, and targeted secondary reading improvement initiative to support school districts as required under section 6 of this act, including:

(a) Administering, reviewing, and monitoring grants for tier one grant recipients and providing contracted services;

(b) Developing, administering, and monitoring tier two improvement agreements and providing support and services under the terms of the agreements; and

(c) Coordinating and providing the intensive intervention and support for tier three schools and districts, including the instructional audit, intervention plan, and intervention team.

(2) Educational service districts shall also:

(a) Develop public-private partnerships and seek external grants and funds to leverage the state resources provided to support the mathematics and science improvement initiative;

(b) Collect, compile, and disseminate data and information about the activities and outcomes under the initiative, including student achievement data from designated diagnostic assessments; and

(c) Develop appropriate reporting and monitoring procedures to ensure accountability for the use of funds distributed to school districts through the tiered support system and for the achievement of desired outcomes.

Sec. 8. RCW 28A.310.350 and 1977 ex.s. c 283 s 10 are each amended to read as follows:

The basic core services and cost upon which educational service districts are budgeted shall include, but not be limited to, the following:

(1) Educational service district administration and facilities such as office space, maintenance and utilities;

(2) Cooperative administrative services such as assistance in carrying out procedures to abolish sex and race bias in school programs, fiscal services, grants management services, special education services and transportation services;

(3) Personnel services such as certification/registration services;

(4) Learning resource services such as audio visual aids;

(5) Cooperative curriculum services such as health promotion and health education services, in-service training, workshops and assessment; ~~(and)~~

(6) Professional development services identified by statute or the omnibus appropriations act; and

~~(7) Special needs of local education agencies.~~

NEW SECTION. Sec. 9. RCW 28A.300.350 (Excellence in mathematics training program) and 1999 c 347 s 2 are each repealed.

NEW SECTION. Sec. 10. Sections 3 through 7 of this act are each added to chapter 28A.415 RCW under the subchapter heading "mathematics, science, and targeted secondary reading improvement initiative."

Sec. 11. RCW 28A.415.200 and 1989 c 146 s 1 are each amended to read as follows:

The legislature finds that it is important to have a teaching force that reflects the rich diversity of the students served in the public schools. A diverse and culturally competent teaching force provides a unique social, emotional, and academic learning environment for a diverse student body. The legislature further finds that certain groups, as characterized by ethnic background, are traditionally underrepresented in the teaching profession in the state of Washington and that the ethnic diversity of the student population in the state of Washington is increasing. ~~(The legislature intends to increase the number of people from underrepresented groups entering our teaching force.)~~ The legislature further finds that Washington lacks a systemic and strategic recruitment approach to increasing diversity among educators. Additional steps must be taken to increase the number of diverse high school students who seek to enter the teaching profession, especially in teacher shortage areas and among multilingual, multicultural students.

NEW SECTION. Sec. 12. A new section is added to chapter 28A.415 RCW to read as follows:

(1) The recruiting diverse Washington teachers program is established to recruit and provide training and support for diverse high school students to enter the teaching profession, especially in teacher shortage areas and among multilingual, multicultural students. The program shall be administered by the professional educator standards board.

(2) The program shall consist of the following components:

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(a) Targeted recruitment of diverse students, especially multilingual, multicultural students in grades nine through twelve through outreach and communication strategies. The focus of recruitment efforts shall be on encouraging students to consider and explore becoming future teachers in mathematics, science, bilingual education, special education, and English as a second language;

(b) A curriculum that provides future teachers with opportunities to observe classroom instruction at all grade levels; includes preteaching internships at all grade levels with a focus on shortage areas; and covers such topics as lesson planning, learning styles, student learning data and information, the achievement gap, cultural competency, and education policy;

(c) Academic and community support services for students to help them overcome possible barriers to becoming future teachers, such as supplemental tutoring; advising on college readiness, applications, and financial aid processes; and mentoring; and

(d) Future teacher camps held on college campuses where students can attend workshops and interact with college faculty and current teachers.

(3) As part of its administration of the program, the professional educator standards board shall:

(a) Develop the curriculum and program guidelines in consultation with an advisory group of teachers, representatives of teacher preparation programs, teacher candidates, students, and representatives of diverse communities;

(b) Subject to funds appropriated for this purpose, allocate grant funds through a competitive process to partnerships of high schools, teacher preparation programs, and community-based organizations to design and deliver programs that include the components under subsection (2) of this section; and

(c) Conduct an evaluation of the effectiveness of current strategies and programs for recruiting diverse teachers, especially multilingual, multicultural teachers, in Washington and in other states. The board shall use the findings from the evaluation to revise the recruiting diverse Washington teachers program as necessary and make other recommendations to teacher preparation programs or the legislature.

NEW SECTION. Sec. 13. RCW 28A.415.205 (Minority teacher recruitment program) and 2005 c 497 s 211, 1991 c 238 s 75, & 1989 c 146 s 2 are each repealed.

NEW SECTION. Sec. 14. Captions used in this act are not any part of the law."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5955 and ask the House to recede therefrom.

Senators Prentice spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Prentice that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5955 and ask the House to recede therefrom.

The motion by Senator Prentice carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 5955 and asked the House to recede therefrom.

MOTION

At 12:58 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Monday, April 16, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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1137	President Signed	15	1756-S	President Signed	15
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1218	President Signed	15	1784-S	President Signed	15
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1247	President Signed	15	1826-S	President Signed	15
	Speaker Signed	2		Speaker Signed	2
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1416	President Signed	15	1994	President Signed	15
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