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**SUBSTITUTE SENATE BILL 5753**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Shewmake and Lovelett)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to a cooperative agreement between the department  
2 of transportation and the Lummi Nation concerning construction of a  
3 roadway; and adding new sections to chapter 47.20 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.20  
6 RCW to read as follows:

7 (1) The department is authorized to enter into a cooperative  
8 agreement with the governing authority of the Lummi Nation and  
9 appropriate agencies of the United States for the location, design,  
10 right-of-way acquisition, construction, and maintenance of a public  
11 road beginning on Rural Avenue at the southern boundary of the  
12 Ferndale city limits, traveling across the property held in tribal  
13 trust status by the United States for the Lummi Nation, and connect  
14 to the approximate location of where the Ferndale city limits  
15 intersect Kope Road. The new road segment shall be named after  
16 construction is concluded.

17 (2) The definitions in this subsection apply throughout this  
18 section and sections 2 through 5 of this act unless context clearly  
19 requires otherwise.

20 (a) "Agreement" means the cooperative agreement between the  
21 department, the governing authority of the Lummi Nation, and agencies

1 of the United States, as authorized by subsection (1) of this  
2 section.

3 (b) "Roadway" means the public road segment constructed pursuant  
4 to the agreement authorized by subsection (1) of this section.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.20  
6 RCW to read as follows:

7 The Lummi Nation shall assume responsibility for the operation  
8 and maintenance and future improvement of the roadway. The agreement  
9 shall also reserve to the governing authority of the Lummi Nation  
10 authority to construct road intersections or grade separation  
11 crossings of the roadway.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.20  
13 RCW to read as follows:

14 The department is authorized to determine the location of the  
15 roadway in consultation with and approval by the governing authority  
16 of the Lummi Nation. The department may then proceed with the  
17 establishment of the roadway and transfer of the roadway to the Lummi  
18 Nation to be operated and maintained as a public road.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.20  
20 RCW to read as follows:

21 The department is authorized to acquire the remaining right-of-  
22 way for the roadway with an easement provided by the Lummi Nation.  
23 The secretary pursuant to the agreement is authorized to convey by  
24 deed to the Lummi Nation the right-of-way to the entire roadway when  
25 fully acquired in return for a conveyance by the governing authority  
26 of the Lummi Nation to the state of Washington of a perpetual  
27 easement for public travel on the through lanes and shoulders of the  
28 roadway when constructed. The agreement may also authorize the  
29 governing authority of the Lummi Nation to convey to the United  
30 States an easement to construct, maintain, and repair roadway  
31 improvements if such an easement is required by regulations of the  
32 bureau of Indian affairs.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 47.20  
34 RCW to read as follows:

35 Except as otherwise provided by this act or by the agreement  
36 authorized by section 1 of this act, the department may proceed with

1 the location, design, acquisition of right-of-way, and construction  
2 of the roadway. After construction and turnback of the roadway to the  
3 Lummi Nation, the Lummi Nation will have the responsibility to  
4 maintain the roadway as a public road.

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