

**FIFTY THIRD DAY**

---

MORNING SESSION

---

Senate Chamber, Olympia, Thursday, March 3, 2011

The Senate was called to order at 9:30 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 Carrell, Hewitt and Kastama.

The Sergeant at Arms Color Guard consisting of Pages Mitchell Jamison and Ashley Johnson, presented the Colors. Pastor Sandra Kreis of St. Christopher Community Church of Olympia offered the prayer.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 5863 by Senators Chase and Kline

AN ACT Relating to creating a tax on plastic shopping bags; adding a new chapter to Title 82 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1008 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Appleton and Hunt)

AN ACT Relating to membership on the Washington citizens' commission on salaries for elected officials; and amending RCW 43.03.305.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1051 by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Eddy, Goodman, Kelley and Moeller)

AN ACT Relating to trusts and estates; amending RCW 11.02.005, 11.28.237, 11.68.090, 11.94.050, 11.96A.030, 11.96A.050, 11.96A.070, 11.96A.110, 11.96A.120, 11.97.010, 11.98.009, 11.98.039, 11.98.045, 11.98.051, 11.98.055, 11.98.070, and 11.100.090; adding new sections to chapter 11.96A RCW; adding a new section to chapter 11.97 RCW; adding new sections to chapter 11.98 RCW; adding a new chapter to Title 11 RCW; creating a new section; and providing an effective date.

Referred to Committee on Judiciary.

HB 1052 by Representatives Pedersen, Rodne, Eddy and Moeller

AN ACT Relating to the authority of shareholders and boards of directors to take certain actions under the corporation act; amending RCW 23B.02.060, 23B.08.010, 23B.10.200, 23B.10.030, 23B.11.030, 23B.12.020, and 23B.14.020; and adding new sections to chapter 23B.08 RCW.

Referred to Committee on Judiciary.

SHB 1145 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Overstreet, Hurst, Klippert, Hinkle, Angel, Ross, Nealey, Warnick, Kirby, Short, Fagan, Hunt, Kelley, Eddy, Bailey, Kenney, McCune and Condotta)

AN ACT Relating to mail theft; amending RCW 9A.56.010; adding new sections to chapter 9A.56 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

SHB 1148 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Kretz)

AN ACT Relating to the establishment of a license limitation program for the harvest and delivery of spot shrimp originating from coastal or offshore waters into the state; amending RCW 77.65.210, 77.65.220, and 77.70.005; adding new sections to chapter 77.65 RCW; adding a new section to chapter 77.70 RCW; prescribing penalties; and providing an expiration date.

Referred to Committee on Natural Resources & Marine Waters.

2SHB 1153 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Ladenburg, Walsh, Hurst, Goodman, Kagi, Rodne and Jinkins)

AN ACT Relating to costs for the collection of DNA samples; and amending RCW 43.43.7541.

Referred to Committee on Judiciary.

SHB 1169 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Haigh, Chandler, Blake, Kristiansen, Taylor, Rivers, Finn and Shea)

AN ACT Relating to noxious weed lists; and amending RCW 17.10.080 and 17.10.090.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 1170 by House Committee on Judiciary (originally sponsored by Representatives Roberts, Hope, Dickerson, Dammeier, Green, Rolfes, Haigh, Appleton, Walsh, Ormsby, Darneille and Kenney)

AN ACT Relating to triage facilities; amending RCW 71.05.153 and 10.31.110; reenacting and amending RCW 71.05.020; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

HB 1195 by Representatives Kelley and Santos

AN ACT Relating to clarifying that a license and endorsement are needed to make small loans; and amending RCW 31.45.073.

Referred to Committee on Financial Institutions, Housing & Insurance.

HB 1215 by Representatives Lias, Rodne, Goodman and Kenney

AN ACT Relating to clarifying the application of the fifteen-day storage limit on liens for impounded vehicles; and amending RCW 46.55.130.

Referred to Committee on Transportation.

HB 1222 by Representatives Morris and Lytton

AN ACT Relating to limited expansions of urban growth areas into one hundred year floodplains in areas adjacent to a freeway interchange or interstate in counties wholly or partially bordering salt waters with more than one hundred thousand but fewer than one hundred fifty thousand residents; and amending RCW 36.70A.110.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1247 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Hunter, Darneille and Kenney)

AN ACT Relating to the staffing of secure community transition facilities; amending RCW 71.09.300; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 1249 by House Committee on Ways & Means (originally sponsored by Representatives Cody, Pettigrew, Hunter and Darneille)

AN ACT Relating to ensuring efficient and economic medicaid nursing facility payments; amending RCW 74.46.431, 74.46.435, 74.46.437, 74.46.485, 74.46.496, 74.46.501, 74.46.506, 74.46.515, and 74.46.521; repealing RCW 74.46.433; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 1466 by Representatives Kirby and Bailey

AN ACT Relating to the department of financial institutions' regulation of trust companies; and amending RCW 30.08.025.

Referred to Committee on Financial Institutions, Housing & Insurance.

ESHB 1492 by House Committee on Judiciary (originally sponsored by Representatives Pedersen and Rodne)

AN ACT Relating to the Uniform Commercial Code Article 9A on secured transactions; amending RCW 62A.9A-102, 62A.9A-105, 62A.9A-307, 62A.9A-311, 62A.9A-316, 62A.9A-317, 62A.9A-326, 62A.9A-406, 62A.9A-408, 62A.9A-503, 62A.9A-507, 62A.9A-515, 62A.9A-516, 62A.9A-518, 62A.9A-521, 62A.9A-607, 62A.2A-103, 43.340.050, 60.56.015, 60.11.040, 62A.2A-310, 62A.8-103, 62A.9A-209, 62A.9A-309, 62A.9A-310, 62A.9A-313, 62A.9A-320, 62A.9A-328, 62A.9A-335, 62A.9A-337, 62A.9A-338, 62A.9A-405, 62A.9A-505, 62A.9A-506, 62A.9A-508, 62A.9A-510, 62A.9A-520, 62A.9A-601, 62A.9A-602, 62A.9A-611, 62A.9A-621, 62A.9A-625, 62A.9A-628, and 1.08.015; adding new sections to chapter 62A.9A RCW; creating new sections; and providing an effective date.

Referred to Committee on Judiciary.

SHB 1493 by House Committee on Health Care & Wellness (originally sponsored by Representatives Pedersen, Bailey, Kagi, Clibborn, Ryu, Jinkins, Hinkle, Moeller, Van De Wege, Roberts, Stanford and Kenney)

AN ACT Relating to providing greater transparency to the health professions disciplinary process; and adding a new section to chapter 18.130 RCW.

Referred to Committee on Health & Long-Term Care.

2SHB 1507 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Ladenburg, Klippert, Hurst, Ross, Hope, Armstrong, Kirby, Warnick, Johnson and Kelley)

AN ACT Relating to crimes against pharmacies; and amending RCW 9A.56.200.

Referred to Committee on Judiciary.

SHB 1542 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Buys, Haler, Johnson and Condotta)

AN ACT Relating to possession of motorcycle theft tools; adding a new section to chapter 9A.56 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

HB 1544 by Representatives Hunter and Anderson

AN ACT Relating to restricting the eligibility for the basic health plan to the basic health transition eligibles population under the medicaid waiver; reenacting and amending RCW 70.47.020; and declaring an emergency.

Referred to Committee on Ways & Means.

EHB 1559 by Representatives Haigh, Dammeier and Goodman

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AN ACT Relating to indemnification agreements involving design professionals; and amending RCW 4.24.115.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Judiciary.

HB 1867 by Representatives Kelley, Rivers, Kirby and Stanford

SHB 1565 by House Committee on Judiciary (originally sponsored by Representatives Frockt, Rodne, Pedersen, Eddy, Goodman, Roberts, Walsh, Green, Jacks, Fitzgibbon, Reykdal, Kenney, Stanford, Billig and Kelley)

AN ACT Relating to clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates; and amending RCW 19.240.010.

AN ACT Relating to the termination or modification of domestic violence protection orders; amending RCW 26.50.130; and creating a new section.

Referred to Committee on Financial Institutions, Housing & Insurance.

Referred to Committee on Human Services & Corrections.

ESHB 1885 by House Committee on Environment (originally sponsored by Representatives Moscoso, Rolfes and Fitzgibbon)

SHB 1626 by House Committee on Judiciary (originally sponsored by Representatives Goodman and Rodne)

AN ACT Relating to providing streamlining improvements in the administration of programs affecting the natural environment; amending RCW 79A.05.020, 79A.05.045, 70.93.200, 70.93.220, 70.93.250, 70.951.080, 70.95J.025, 70.105.210, 70.105.220, 90.80.150, 90.54.160, 90.44.052, 90.90.030, 90.90.040, 90.82.043, 70.107.030, 70.107.060, 70.95.290, 70.95C.220, 42.56.270, 89.08.040, 89.08.050, 43.23.130, 15.85.050, 77.04.150, 77.12.068, 77.12.702, 77.12.755, 77.12.820, 77.60.130, 77.95.020, 77.95.190, 77.95.200, 77.95.230, 43.30.340, 76.06.150, 79.02.260, 79.17.010, 79.17.020, 79.19.100, 79.125.710, 79.140.020, 79.105.410, 43.30.360, 90.71.010, 90.71.230, 90.71.250, 90.71.260, 90.71.270, 90.71.280, 90.71.290, 90.71.300, 90.71.310, 90.71.370, 90.71.340, 90.71.360, 43.155.070, 70.105D.070, 70.146.070, 79.105.150, 79A.15.040, and 89.08.520; reenacting and amending RCW 79A.05.030 and 77.85.130; and repealing RCW 79A.05.190, 79A.05.195, 79A.05.351, 70.95C.250, 70.95H.005, 70.95H.007, 70.95H.010, 70.95H.030, 70.95H.040, 70.95H.050, 70.95H.900, 70.95H.901, 70.107.080, 70.93.090, 79.125.730, 77.95.140, 77.95.150, 77.95.160, 43.30.345, 43.30.370, 79.125.610, 43.155.110, 70.105D.120, 70.146.110, 77.85.240, 79.105.610, 79A.15.140, 89.08.580, and 90.50A.080.

AN ACT Relating to harassment; amending RCW 10.14.150, 10.14.020, and 10.14.080; and adding a new section to chapter 10.14 RCW.

Referred to Committee on Judiciary.

HB 1657 by Representatives Ahern, McCune, Miloscia, Hurst, Hope, Rivers and Kelley

Referred to Committee on Natural Resources & Marine Waters.

AN ACT Relating to the statute of limitations on certain sex offenses; and reenacting and amending RCW 9A.04.080.

Referred to Committee on Human Services & Corrections.

SHB 1697 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Seaquist, Goodman, Orwall, Dickerson and Kenney)

AN ACT Relating to unannounced monthly visits to persons providing care to children in the dependency system; and reenacting and amending RCW 74.13.031.

Referred to Committee on Human Services & Corrections.

SHB 1719 by House Committee on Judiciary (originally sponsored by Representatives Rodne, Schmick, Haler, Smith, Wilcox, Johnson, Klippert, Kristiansen, McCune, Short, Ross and Warnick)

SHB 1899 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Miloscia, Overstreet, Hurst, Taylor, Hunt, Armstrong, McCoy and Condotta)

AN ACT Relating to limiting liability for unauthorized passengers in a vehicle; adding a new section to chapter 4.92 RCW; adding a new section to chapter 4.24 RCW; and creating new sections.

AN ACT Relating to penalties for public records violations; reenacting and amending RCW 42.56.550; and prescribing penalties.

Referred to Committee on Judiciary.

Referred to Committee on Government Operations, Tribal Relations & Elections.

EHB 1730 by Representatives Jinkins, Rodne, Haler and Dunshee

HB 1916 by Representatives Ryu, Kagi, Maxwell, Kenney and Santos

AN ACT Relating to the authorization of bonds issued by Washington local governments; amending RCW 39.46.040, 35.33.131, 35.34.220, 35A.33.130, and 35A.34.220; and creating a new section.

AN ACT Relating to business services delivered by associate development organizations; amending RCW 43.330.080, 43.330.082, and 43.330.010; and adding a new section to chapter 43.330 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Substitute House Bill No. 1008 which was referred to the Committee on Government Operations, Tribal Relations & Elections and Substitute House Bill No. 1247 which was referred to the Committee on Ways & Means.

MOTION

On motion of Senator Ericksen, Senators Carrell, Hewitt and Pflug were excused.

MOTION

At 9:41 a.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of caucuses.

The Senate was called to order at 11:37 a.m. by President Owen.

MOTION

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

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator King moved that Gubernatorial Appointment No. 9082, Sid Morrison, as a member of the Board of Trustees, Central Washington University, be confirmed.

Senators King and Fraser spoke in favor of passage of the motion.

MOTION

On motion of Senator Eide, Senator Kastama was excused.

APPOINTMENT OF SID MORRISON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9082, Sid Morrison as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9082, Sid Morrison as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Hewitt and Kastama

Gubernatorial Appointment No. 9082, Sid Morrison, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

SECOND READING

SENATE BILL NO. 5021, by Senators Pridemore, Kline, Kohl-Welles, Keiser, Prentice, Tom, Chase, White, Nelson, Haugen and McAuliffe

Enhancing election campaign disclosure requirements to promote greater transparency for the public.

MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5021 was substituted for Senate Bill No. 5021 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 29, after line 16, strike all material through line 26, and insert the following:

(2) A violation of the provisions of this chapter may be punished under chapter 9.94A RCW as follows:

(a) A person who intentionally violates a provision of this chapter is guilty of a misdemeanor;

(b) A person who, within a five-year period, intentionally violates three or more provisions of this chapter is guilty of a gross misdemeanor; and

(c) A person who intentionally procures or offers any false or forged document to be filed, registered, or recorded with the commission under this chapter is guilty of a class C felony.

Senators Benton and Pridemore spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 29, after line 16 to Substitute Senate Bill No. 5021.

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

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 5021 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5021.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5021 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Hewitt and Kastama

ENGROSSED SUBSTITUTE SENATE BILL NO. 5021, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Fain moved adoption of the following resolution:

SENATE RESOLUTION  
8631

By Senators Fain, Zarelli, King, Pflug, White, Baumgartner, Ericksen, Hill, and Shin

WHEREAS, Jay Maebori has been named the 2011 Washington State Teacher of the Year; and

WHEREAS, Jay Maebori began teaching language arts at Kentwood High School in Covington, Washington, in 2001; and

WHEREAS, Jay Maebori received his Bachelor's degree in Communications from the University of Washington in 1994, and his Master's degree in Teaching from Seattle Pacific University in 2003; and

WHEREAS, Jay Maebori is a National Board Certified Teacher; and

WHEREAS, Jay Maebori also teaches courses at Kentwood High School that are designed to assist students who have failed to meet state education standards, and 80 percent of Jay's students later succeed; and

WHEREAS, Jay Maebori is known to utilize current events, pop culture, and music to help his students relate to the subject matter; and

WHEREAS, Jay Maebori has initiated an e-newsletter that he sends to the parents of his students to keep them informed and educated about their children's progress, and encourages his colleagues to develop their own parent communication plans; and

WHEREAS, Jay Maebori believes that teachers observing other teachers and pooling the knowledge, skills, and expertise of all is the best way to improve schools in Washington State; and

WHEREAS, Jay Maebori believes that listening to his students and their concerns is the key to successfully reaching and inspiring them; and

WHEREAS, Jay Maebori is an ambassador for education both statewide and across the country, sets a shining example for his peers and colleagues, and is a credit to the teaching profession as a whole;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Jay Maebori, sophomore language arts teacher at Kentwood High School in Covington and 2011 Washington State Teacher of the Year; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Jay Maebori and his family, the Kent School District, and Kentwood High School.

Senator Fain spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8631.

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

MOTION

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

MESSAGE FROM THE HOUSE

March 2, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1081,  
SUBSTITUTE HOUSE BILL NO. 1133,  
SECOND SUBSTITUTE HOUSE BILL NO. 1362,  
HOUSE BILL NO. 1391,  
SUBSTITUTE HOUSE BILL NO. 1401,  
SECOND SUBSTITUTE HOUSE BILL NO. 1405,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1443,  
SUBSTITUTE HOUSE BILL NO. 1502,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1593,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599,  
SUBSTITUTE HOUSE BILL NO. 1699,  
SUBSTITUTE HOUSE BILL NO. 1761,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1776,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1808,  
SUBSTITUTE HOUSE BILL NO. 1832,  
SUBSTITUTE HOUSE BILL 1923,  
HOUSE BILL NO. 2003.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1089,  
SECOND SUBSTITUTE HOUSE BILL NO. 1128,  
SECOND SUBSTITUTE HOUSE BILL NO. 1163,  
ENGROSSED HOUSE BILL NO. 1364,  
HOUSE BILL NO. 1491,  
SECOND SUBSTITUTE HOUSE BILL NO. 1510,  
SECOND SUBSTITUTE HOUSE BILL 1519,  
SUBSTITUTE HOUSE BILL NO. 1522,  
HOUSE BILL NO. 1586,  
HOUSE BILL NO. 1631,  
SUBSTITUTE HOUSE BILL NO. 1650,  
ENGROSSED HOUSE BILL NO. 1703,  
SUBSTITUTE HOUSE BILL NO. 1756,

SUBSTITUTE HOUSE BILL NO. 1829,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1903,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1909.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL NO. 1490,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1849.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 12:00 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

MOTION

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

SECOND READING  
 CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Shin moved that Gubernatorial Appointment No. 9005, Logan Bahr, as a member of the Board of Trustees, Central Washington University, be confirmed.

Senator Shin spoke in favor of the motion.

APPOINTMENT OF LOGAN BAHR

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9005, Logan Bahr as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9005, Logan Bahr as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Brown

Excused: Senators Carrell, Hewitt and Kastama

Gubernatorial Appointment No. 9005, Logan Bahr, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

SECOND READING  
 CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9067, James Lowery, as a member of the Board of Trustees, Centralia Community College District No. 12, be confirmed.

Senator Hatfield spoke in favor of the motion.

APPOINTMENT OF JAMES LOWERY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9067, James Lowery as a member of the Board of Trustees, Centralia Community College District No. 12.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9067, James Lowery as a member of the Board of Trustees, Centralia Community College District No. 12 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Kline

Excused: Senators Carrell, Hewitt and Kastama

Gubernatorial Appointment No. 9067, James Lowery, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Centralia Community College District No. 12.

MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

MOTION

On motion of Senator White, Senator Kline was excused.

SECOND READING

SENATE BILL NO. 5449, by Senators Brown, Pflug, Carrell, Harper, Murray, Hobbs, Fain, Delvin, Roach, Ericksen, Shin, Tom, Kohl-Welles and Kilmer

Regarding the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state.

MOTION

On motion of Senator Brown, Substitute Senate Bill No. 5449 was substituted for Senate Bill No. 5449 and the substitute bill was placed on the second reading and read the second time.

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## MOTION

Senator Brown moved that the following striking amendment by Senators Brown and Hill be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Article or product" means any tangible article or product, but excludes: (a) Any services sold, offered for sale, or made available in this state, including free services and online services; (b) any product subject to regulation by the United States food and drug administration and that is primarily used for medical or medicinal purposes; (c) food and beverages; and (d) restaurant services.

(2) "Copyrightable end product" means a work within the subject matter of copyright as specified by section 102 of the United States copyright act.

(3) "Essential component" means a component of an article or product provided or to be provided to a third party pursuant to a contract, including a purchase order, without which the article or product will not perform as intended and for which there is no substitute component available that offers a comparable range and quality of functionalities and is available in comparable quantities and at a comparable price.

(4) "Manufacture" means to directly manufacture, produce, or assemble an article or product subject to section 2 of this act, in whole or substantial part, but does not include contracting with or otherwise engaging another person, or that person engaging another person, to develop, manufacture, produce, or assemble an article or product subject to section 2 of this act.

(5) "Material competitive injury" means at least a three percent retail price difference between the article or product made in violation of section 2 of this act designed to harm competition and a directly competing article or product that was manufactured without the use of stolen or misappropriated information technology, with such a price difference occurring over a four-month period of time.

(6) "Retail price" means the retail price of stolen or misappropriated information technology charged at the time of, and in the jurisdiction where, the alleged theft or misappropriation occurred, multiplied by the number of stolen or misappropriated items used in the business operations of the person alleged to have violated section 2 of this act.

(7)(a) "Stolen or misappropriated information technology" means hardware or software that the person referred to in section 2 of this act acquired, appropriated, or used without the authorization of the owner of the information technology or the owner's authorized licensee in violation of applicable law, but does not include situations in which the hardware or software alleged to have been stolen or misappropriated was not available for retail purchase on a stand-alone basis at or before the time it was acquired, appropriated, or used by such a person.

(b) Information technology is considered to be used in a person's business operations if the person uses the technology in the manufacture, distribution, marketing, or sales of the articles or products subject to section 2 of this act.

NEW SECTION. **Sec. 2.** Any person who manufactures an article or product while using stolen or misappropriated information technology in its business operations after notice and opportunity to cure as provided in section 5 of this act and, with respect to remedies sought under section 6(6) or 7 of this act, causes a material competitive injury as a result of such use of stolen or misappropriated information technology, is deemed to engage in an unfair act where such an article or product is sold or offered for sale

in this state, either separately or as a component of another article or product, and in competition with an article or product sold or offered for sale in this state that was manufactured without violating this section. A person who engages in such an unfair act, and any articles or products manufactured by the person in violation of this section, is subject to the liabilities and remedial provisions of this chapter in an action by the attorney general or any person described in section 6(5) of this act, except as provided in sections 3 through 9 of this act.

NEW SECTION. **Sec. 3.** No action may be brought under this chapter, and no liability results, where:

(1) The end article or end product sold or offered for sale in this state and alleged to violate section 2 of this act is:

(a) A copyrightable end product;

(b) Merchandise manufactured by or on behalf of, or pursuant to a license from, a copyright owner and which displays or embodies a name, character, artwork, or other indicia of or from a work that falls within (a) of this subsection, or merchandise manufactured by or on behalf of, or pursuant to a license from, a copyright or trademark owner and that displays or embodies a name, character, artwork, or other indicia of or from a theme park, theme park attraction, or other facility associated with a theme park; or

(c) Packaging, carrier media, or promotional or advertising materials for any end article, end product, or merchandise that falls within (a) or (b) of this subsection;

(2) The allegation that the information technology is stolen or misappropriated is based on a claim that the information technology or its use infringes a patent or misappropriates a trade secret under applicable law or that could be brought under any provision of Title 35 of the United States Code;

(3) The allegation that the information technology is stolen or misappropriated is based on a claim that the defendant's use of the information technology violates the terms of a license that allows users to modify and redistribute any source code associated with the technology free of charge; or

(4) The allegation is based on a claim that the person violated section 2 of this act by aiding, abetting, facilitating, or assisting someone else to acquire, appropriate, use, sell, or offer to sell, or by providing someone else with access to, information technology without authorization of the owner of the information technology or the owner's authorized licensee in violation of applicable law.

NEW SECTION. **Sec. 4.** No injunction may issue against a person other than the person adjudicated to have violated section 2 of this act, and no attachment order may issue against articles or products other than articles or products in which the person alleged to violate section 2 of this act holds title. A person other than the person alleged to violate section 2 of this act includes any person other than the actual manufacturer who contracts with or otherwise engages another person to develop, manufacture, produce, market, distribute, advertise, or assemble an article or product alleged to violate section 2 of this act.

NEW SECTION. **Sec. 5.** (1) No action may be brought under section 2 of this act unless the person subject to section 2 of this act received written notice of the alleged use of the stolen or misappropriated information technology from the owner or exclusive licensee of the information technology or the owner's agent and the person: (a) Failed to establish that its use of the information technology in question did not violate section 2 of this act; or (b) failed, within ninety days after receiving such a notice, to cease use of the owner's stolen or misappropriated information technology. However, if the person commences and thereafter proceeds diligently to replace the information technology with information technology whose use would not violate section 2 of this act, such a period must be extended for an additional period of ninety days, not to exceed one hundred eighty days total. The

information technology owner or the owner's agent may extend any period described in this section.

(2) To satisfy the requirements of this section, written notice must, under penalty of perjury: (a) Identify the stolen or misappropriated information technology; (b) identify the lawful owner or exclusive licensee of the information technology; (c) identify the applicable law the person is alleged to be violating and state that the notifier has a reasonable belief that the person has acquired, appropriated, or used the information technology in question without authorization of the owner of the information technology or the owner's authorized licensee in violation of such applicable law; (d) to the extent known by the notifier, state the manner in which the information technology is being used by the defendant; (e) state the articles or products to which the information technology relates; and (f) specify the basis and the particular evidence upon which the notifier bases such an allegation.

(3) The written notification must state, under penalty of perjury, that, after a reasonable and good-faith investigation, the information in the notice is accurate based on the notifier's reasonable knowledge, information, and belief.

**NEW SECTION. Sec. 6.** (1) No earlier than ninety days after the provision of notice in accordance with section 5 of this act, the attorney general, or any person described in subsection (5) of this section, may bring an action against any person that is subject to section 2 of this act:

(a) To enjoin violation of section 2 of this act, including by enjoining the person from selling or offering to sell in this state articles or products that are subject to section 2 of this act, except as provided in subsection (6) of this section. However, such an injunction does not encompass articles or products to be provided to a third party that establishes that such a third party has satisfied one or more of the affirmative defenses set forth in section 8(1) of this act with respect to the manufacturer alleged to have violated section 2 of this act;

(b) Only after a determination by the court that the person has violated section 2 of this act, to recover the greater of:

(i) Actual damages, which may be imposed only against the person who violated section 2 of this act; or

(ii) Statutory damages of no more than the retail price of the stolen or misappropriated information technology, which may be imposed only against the person who violated section 2 of this act; or

(c) In the event the person alleged to have violated section 2 of this act has been subject to a final judgment or has entered into a final settlement, or any products manufactured by such a person and alleged to violate section 2 of this act have been the subject of an injunction or attachment order, in any federal or state court in this state or any other state, arising out of the same theft or misappropriation of information technology, the court shall dismiss the action. If such a person is a defendant in an ongoing action, or any products manufactured by such a person and alleged to violate section 2 of this act are the subject of an ongoing injunction or attachment order, in any federal or state court in this state or any other state, arising out of the same theft or misappropriation of information technology, the court shall stay the action against such a person pending resolution of the other action. In the event the other action results in a final judgment or final settlement, the court shall dismiss the action against the person.

(2) After determination by the court that a person has violated section 2 of this act and entry of a judgment against the person for violating section 2 of this act, the attorney general, or a person described in subsection (5) of this section, may add to the action a claim for actual damages against a third party who sells or offers to sell in this state products made by that person in violation of section 2 of this act, subject to the provisions of section 8 of this act. However, damages may be imposed against a third party only if:

(a) The third party was provided a copy of a written notice sent to the person alleged to have violated section 2 of this act that satisfies the requirements of section 5 of this act at least ninety days prior to the entry of the judgment;

(b) The person who violated section 2 of this act did not make an appearance or does not have sufficient attachable assets to satisfy a judgment against the person;

(c) Such a person either manufactured the final product or produced a component equal to thirty percent or more of the value of the final product;

(d) Such a person has a direct contractual relationship with the third party respecting the manufacture of the final product or component; and

(e) The third party has not been subject to a final judgment in any federal or state court in this state or any other state arising out of the same theft or misappropriation of information technology. However, in the event the third party is a party to an ongoing suit for damages, or has entered an appearance as an interested third party in proceedings in rem, in any federal or state court in this state or any other state arising out of the same theft or misappropriation of information technology, the court shall stay the action against the third party pending resolution of the other action. In the event the other action results in a final judgment, the court shall dismiss the action against the third party and any in rem action as to any articles or products manufactured for such a third party or that have been or are to be supplied to such a third party.

(3) An award of damages against such a third party pursuant to subsection (2) of this section must be the lesser of the retail price of the stolen or misappropriated information technology at issue or two hundred fifty thousand dollars, less any amounts recovered from the person adjudicated to have violated section 2 of this act, and subsection (4)(a) of this section does not apply to such an award or recovery against the third party.

(4) In an action under this chapter, a court may:

(a) Against the person adjudicated to have violated section 2 of this act, increase the damages up to three times the damages authorized by subsection (1)(b) of this section where the court finds that the person's use of the stolen or misappropriated information technology was willful;

(b) With respect to an award under subsection (1) of this section only, award costs and reasonable attorneys' fees to: (i) A prevailing plaintiff in actions brought by an injured person under section 2 of this act; or (ii) a prevailing defendant in actions brought by an allegedly injured person; and

(c) With respect to an action under subsection (2) of this section brought by a private plaintiff only, award costs and reasonable attorneys' fees to a third party who qualifies for an affirmative defense under section 8 of this act. However, in a case in which the third party received a copy of the notification described in subsection (2)(a) of this section at least ninety days before the filing of the action under subsection (2) of this section, with respect to a third party's reliance on the affirmative defenses set forth in section 8(1)(c) and (d) of this act, the court may award costs and reasonable attorneys' fees only if all of the conduct on which the affirmative defense is based was undertaken by the third party, and the third party notified the plaintiff of the conduct, prior to the end of the ninety-day period.

(5) A person is deemed to have been injured by the sale or offer for sale of a directly competing article or product subject to section 2 of this act if the person establishes by a preponderance of the evidence that:

(a) The person manufactures articles or products that are sold or offered for sale in this state in direct competition with articles or products that are subject to section 2 of this act;



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(b) The person's articles or products were not manufactured using stolen or misappropriated information technology of the owner of the information technology;

(c) The person suffered economic harm, which may be shown by evidence that the retail price of the stolen or misappropriated information technology was twenty thousand dollars or more; and

(d) If the person is proceeding in rem or seeks injunctive relief, that the person suffered material competitive injury as a result of the violation of section 2 of this act.

(6)(a) If the court determines that a person found to have violated section 2 of this act lacks sufficient attachable assets in this state to satisfy a judgment rendered against it, the court may enjoin the sale or offering for sale in this state of any articles or products subject to section 2 of this act, except as provided in section 4 of this act.

(b) To the extent that an article or product subject to section 2 of this act is an essential component of a third party's article or product, the court shall deny injunctive relief as to such an essential component, provided that the third party has undertaken good faith efforts within the third party's rights under its applicable contract with the manufacturer to direct the manufacturer of the essential component to cease the theft or misappropriation of information technology in violation of section 2 of this act, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease the theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue.

(7) The court shall determine whether a cure period longer than the period reflected in section 5 of this act would be reasonable given the nature of the use of the information technology that is the subject of the action and the time reasonably necessary either to bring such use into compliance with applicable law or to replace the information technology with information technology that would not violate section 2 of this act. If the court deems that a longer cure period would be reasonable, then the action shall be stayed until the end of that longer cure period. If by the end of that longer cure period, the defendant has established that its use of the information technology in question did not violate section 2 of this act, or the defendant ceased use of the stolen or misappropriated information technology, then the action must be dismissed.

**NEW SECTION. Sec. 7.** (1) In a case in which the court is unable to obtain personal jurisdiction over a person subject to section 2 of this act, the court may proceed in rem against any articles or products subject to section 2 of this act sold or offered for sale in this state in which the person alleged to have violated section 2 of this act holds title. Except as provided in section 4 of this act and subsection (2) through (4) of this section, all such articles or products are subject to attachment at or after the time of filing a complaint, regardless of the availability or amount of any monetary judgment.

(2) At least ninety days prior to the enforcement of an attachment order against articles or products pursuant to subsection (1) of this section, the court shall notify any person in possession of the articles or products of the pending attachment order. Prior to the expiration of the ninety day period, any person for whom the articles or products were manufactured, or to whom the articles or products have been or are to be supplied, pursuant to an existing contract or purchase order, may:

(a) Establish that the person has satisfied one or more of the affirmative defenses set forth in section 8(1) of this act with respect to the manufacturer alleged to have violated section 2 of this act, in which case the attachment order must be dissolved only with respect to those articles or products that were manufactured for such a

person, or have been or are to be supplied to such a person, pursuant to an existing contract or purchase order; or

(b) Post a bond with the court equal to the retail price of the allegedly stolen or misappropriated information technology or twenty-five thousand dollars, whichever is less, in which case the court shall stay enforcement of the attachment order against the articles or products and shall proceed on the basis of its jurisdiction over the bond. The person posting the bond shall recover the full amount of such bond, plus interest, after the issuance of a final judgment.

(3) In the event the person posting the bond pursuant to subsection (2)(b) of this section is entitled to claim an affirmative defense in section 8 of this act, and that person establishes with the court that the person is entitled to any affirmative defense, the court shall award costs and reasonable attorneys' fees to the person posting the bond and against the plaintiff in the event the plaintiff proceeds with an action pursuant to section 6(2) of this act against the person posting the bond.

(4) In the event that the court does not provide notification as described in subsection (2) of this section, the court, upon motion of any third party, shall stay the enforcement of the attachment order for ninety days as to articles or products manufactured for the third party, or that have been or are to be supplied to the third party, pursuant to an existing contract or purchase order, during which ninety day period the third party may avail itself of the options set forth in subsection (2)(a) and (b) of this section.

**NEW SECTION. Sec. 8.** (1) A court may not award damages against any third party pursuant to section 6(2) of this act where that party, after having been afforded reasonable notice of at least ninety days and opportunity to plead any of the affirmative defenses set forth in this subsection, establishes by a preponderance of the evidence any of the following:

(a) Such a person is the end consumer or end user of an article or product subject to section 2 of this act, or acquired the article or product after its sale to an end consumer or end user;

(b) Such a person is a business with annual revenues not in excess of fifty million dollars;

(c) The person acquired the articles or products:

(i) In good faith reliance on either: (A) A code of conduct or other written document that governs the person's commercial relationships with the manufacturer adjudicated to have violated section 2 of this act and which includes commitments, such as general commitments to comply with applicable laws, that prohibit use of the stolen or misappropriated information technology by such manufacturer; or (B) written assurances from the manufacturer of the articles or products that the articles or products, to the manufacturer's reasonable knowledge, were manufactured without the use of stolen or misappropriated information technology in the manufacturer's business operations. However, with respect to both (c)(i)(A) and (B) of this subsection, within one hundred eighty days of receiving written notice of the judgment against the manufacturer for a violation of section 2 of this act and a copy of a written notice that satisfies the requirements of section 5 of this act, the person must undertake commercially reasonable efforts to do any of the following:

(I) Exchange written correspondence confirming that such a manufacturer is not using the stolen or misappropriated information technology in violation of section 2 of this act, which may be satisfied, without limitation, by obtaining written assurances from the manufacturer accompanied by copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue;

(II) Direct the manufacturer to cease the theft or misappropriation, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer

demanding that it cease such theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue; or

(III) In a case in which the manufacturer has failed to cease such a theft or misappropriation within the one hundred eighty-day period, and the third party has not fulfilled either option (c)(i)(A) or (B) of this subsection, prevent the future acquisition of the articles or products from the manufacturer during the period that the manufacturer continues to engage in the theft or misappropriation subject to section 2 of this act where doing so would not constitute a breach of an agreement between the person and the manufacturer for the manufacture of the articles or products in question that was entered into on or before one hundred eighty days after the effective date of this section; or

(ii) Pursuant to an agreement between the person and a manufacturer for the manufacture of the articles or products in question that was entered into before one hundred eighty days after the effective date of this section. However, within one hundred eighty days of receiving written notice of the judgment against the manufacturer for a violation of section 2 of this act and a copy of a written notice that satisfies the requirements of section 5 of this act, the person must undertake commercially reasonable efforts to do any of the following:

(A) Obtain from the manufacturer written assurances that such a manufacturer is not using the stolen or misappropriated information technology in violation of section 2 of this act, which may be satisfied, without limitation, by obtaining written assurances from the manufacturer accompanied by copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue;

(B) Direct the manufacturer to cease the theft or misappropriation, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease such theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue; or

(C) In a case in which the manufacturer has failed to cease the theft or misappropriation within the one hundred eighty-day period, and the third party has not fulfilled either option (c)(ii)(A) or (B) of this subsection, cease the future acquisition of the articles or products from the manufacturer during the period that the manufacturer continues to engage in the theft or misappropriation subject to section 2 of this act where doing so would not constitute a breach of such agreement;

(d) The person has made commercially reasonable efforts to implement practices and procedures to require its direct manufacturers, in manufacturing articles or products for such person, not to use stolen or misappropriated information technology in violation of section 2 of this act. A person may satisfy this subsection (1)(d) by:

(i) Adopting and undertaking commercially reasonable efforts to implement a code of conduct or similar written requirements, which are applicable to the person's direct manufacturers, that prohibit the use of stolen or misappropriated information technology by such a manufacturer, subject to a right of audit, and the person either: (A) Has a practice of auditing its direct manufacturers on a periodic basis in accordance with generally accepted industry standards; or (B) requires in its agreements with its direct manufacturers that they submit to audits by a third party, which may include a third-party association of businesses representing the owner of the stolen or misappropriated intellectual property, and further provides that a failure to remedy any deficiencies found in such an audit that constitute a violation of the applicable law of the

jurisdiction where the deficiency occurred constitutes a breach of the contract, subject to cure within a reasonable period of time; or

(ii) Adopting and undertaking commercially reasonable efforts to implement a code of conduct or similar written requirements, which are applicable to the person's direct manufacturers, that prohibit use of stolen or misappropriated information technology by such a manufacturer, and the person undertakes practices and procedures to address compliance with the prohibition against the use of the stolen or misappropriated information technology in accordance with the applicable code of conduct or written requirements; or

(e) The person does not have a contractual relationship with the person alleged to have violated section 2 of this act respecting the manufacture of the articles or products alleged to have been manufactured in violation of section 2 of this act.

(2) A third party must have the opportunity to be heard regarding whether an article or product is an essential component provided or to be provided to a third party, and must have the right to file a motion to dismiss any action brought against it under section 6(2) of this act.

(3) The court may not enforce any award for damages against such a third party until after the court has ruled on that party's claim of eligibility for any of the affirmative defenses set out in this section, and prior to such a ruling may allow discovery, in an action under section 6(2) of this act, only on the particular defenses raised by the third party.

(4) The court shall allow discovery against a third party on an issue only after all discovery on that issue between the parties has been completed and only if the evidence produced as a result of the discovery does not resolve an issue of material dispute between the parties.

(5) Any confidential or otherwise sensitive information submitted by a party pursuant to this section is subject to a protective order.

**NEW SECTION. Sec. 9.** A court may not enforce an award of damages against a third party pursuant to section 6(2) of this act for a period of eighteen months from the effective date of this section.

**NEW SECTION. Sec. 10.** A violation of this chapter may not be considered a violation of the state consumer protection act, and chapter 19.86 RCW does not apply to this chapter. The remedies provided under this chapter are the exclusive remedies for the parties.

**NEW SECTION. Sec. 11.** 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. 12.** Sections 1 through 10 of this act constitute a new chapter in Title 19 RCW."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Brown and Hill to Substitute Senate Bill No. 5449.

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

#### MOTION

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

On page 1, line 3 of the title, after "state;" strike the remainder of the title and insert "adding a new chapter to Title 19 RCW; and prescribing penalties."

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## MOTION

On motion of Senator Brown, the rules were suspended, Engrossed Substitute Senate Bill No. 5449 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Brown and Hill spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5449.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5449 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 7; Absent, 0; Excused, 3.

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

Voting nay: Senators Baumgartner, Benton, Ericksen, Holmquist Newbry, Honeyford, Roach and Stevens

Excused: Senators Carrell, Hewitt and Kastama

ENGROSSED SUBSTITUTE SENATE BILL NO. 5449, 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.

## REMARKS BY THE PRESIDENT

President Owen: "Senator Hargrove? Senator Hargrove? That beautiful child that you had in your arms a moment ago? I assume that is your grandchild? He has your cheeks I noticed. I think we should show him off. There he is. do you agree? He has his cheeks. Senator Haugen, for what purpose do you rise?"

## PERSONAL PRIVILEGE

Senator Haugen: "Well, he reminds me of a young man I saw running down the aisle of the House of Representatives with Ross Young chasing behind him. He looks just like that child, I think it's a flash back."

## REMARKS BY THE PRESIDENT

President Owen: "Where's a photographer when you need one? I ain't stupid. We'll find him. Hang around. What's his name? Logan. This is Logan. Lagan Macrae Hargrove and he's got red hair going on there. Very good."

## SECOND READING

SENATE BILL NO. 5337, by Senators Stevens, Pflug, Honeyford, Swecker and Roach

Authorizing the provision of financial assistance to privately owned airports available for general use of the public.

## MOTIONS

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On motion of Senator Stevens, Substitute Senate Bill No. 5337 was substituted for Senate Bill No. 5337 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Stevens, the rules were suspended, Substitute Senate Bill No. 5337 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5337.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5337 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5337, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5156, by Senators Kohl-Welles, King, Keiser, Delvin and Conway

Concerning airport lounges under the alcohol beverage control act.

## MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5156 was substituted for Senate Bill No. 5156 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5156 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

## MOTION

On motion of Senator Ericksen, Senator Delvin was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5156.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5156 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

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

Voting nay: Senators Hargrove, Haugen, Holmquist Newbry and Prentice

Excused: Senators Carrell, Delvin, Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5156, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5044, by Senators Rockefeller, Zarelli and Regala

Concerning the tax preference review process.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Bill No. 5044 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5044.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5044 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Carrell, Delvin, Hewitt and Kastama

SENATE BILL NO. 5044, 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.

## RULING BY THE PRESIDENT

President Owen: "In ruling upon the Points of Order raised by Senator Hatfield as to whether Amendments 64, 23, and 69 to Senate Bill 5575 fit within the scope and object of the underlying bill, the President finds and rules as follows:

This legislation makes changes to the Energy Independence Act, approved by the voters in 2006 as Initiative Number 937. Very generally, I-937 set certain targets for energy conservation and use of renewable resources. The underlying bill relates specifically to biomass energy. It provides definitions and sets standards as to qualifying facilities and communities.

The President believes it is appropriate to harmonize and explain some of his past precedent on scope and object in

approaching this particular ruling. In the past, the President has ruled that, in dealing with a particular subject or class, a bill often necessarily and inadvertently opens up that entire subject or class to modification, which can result in amendments being proposed which are drastically different from those envisioned by the proponents of a bill but still within the subject or class opened up by the plain language of the bill. The determining factor is always the way in which the underlying law is modified. This can often be a matter of careful drafting, and it is certainly the case that some sections of the law lend themselves more easily to discreet and precise changes than do others.

Merely mentioning a topic or class—for example, setting forth a statute in full because this is required by law—does not, however, mean that every single line set forth may be changed and fit within the scope and object of the bill. In those cases where only a discreet section is changed, the scope and object is similarly discreetly limited. One example might be changes in the criminal code which affect the sentencing grid: a bill on kidnapping, for instance, might require setting forth the full sentencing grid, but this would not mean that every crime within it was being re-visited and that any crime amendment would be within scope. Put another way, the limits of scope and object flow from the *changes or additions to existing law* within a bill, not every conceivable subject touched upon by the bill.

In the matter before us, had the underlying bill been adding biomass as a new form of renewable resource, then it might be that other renewable resources could also be added, such as hydroelectric or solar power. In fact, however, this is not how the bill is drafted. Instead of adding biomass to the class of eligible resources, the bill simply changes—albeit significantly and substantively—the definition of biomass already present in the underlying law. Consequently, amendments to this bill must also fit within the definitions of biomass energy and qualified biomass energy supplied by the bill. The proposed amendments introduce new subjects that are arguably within the scope of I-937 itself, but outside the scope and object of the discreet changes to the definitions of biomass within the bill before the body.

For these reasons, the President finds that the amendments are beyond the scope and object of the bill, and Senator Hatfield's points are well-taken."

The Senate resumed consideration of Senate Bill No. 5575 which had been deferred the previous day.

## MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.285.030 and 2009 c 565 s 20 are each amended to read as follows:

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

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

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

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

(4) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

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(5) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(6) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(7) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(8) "Department" means the department of commerce or its successor.

(9) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(10) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services; or

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments.

(11) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(12) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(13) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(14) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(15) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(16) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(17) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(18) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and (i)

biomass energy (~~based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include (i) wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor by product from paper production; (iii) wood from old growth forests; or (iv) municipal solid waste~~)).

(19) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(20) "Year" means the twelve-month period commencing January 1st and ending December 31st.

(21)(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste.

(b) "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as: (i) Creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste."

On page 1, beginning on line 5 of the title, after "resource;" strike the remainder of the title and insert "and amending RCW 19.285.030."

WITHDRAWAL OF AMENDMENT

On motion of Senator Nelson, the striking amendment by Senator Nelson to Senate Bill No. 5575 was withdrawn.

MOTION

On motion of Senator Hatfield, the rules were suspended, Engrossed Senate Bill No. 5575 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hatfield, Conway, Delvin and Honeyford spoke in favor of passage of the bill.

Senators Rockefeller and Nelson spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5575.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5575 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Fraser, Harper, Hill, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala, Rockefeller, Tom and White

Excused: Senators Hewitt and Kastama

ENGROSSED SENATE BILL NO. 5575, 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.

REMARKS BY THE PRESIDENT

President Owen: "The President would like to mention a couple of things to the members since I have most of you here at this time that might help in the debate in the future that has been brought up to me recently. One is; addressing a member by name, in the House of Representatives that's not allowed but the tradition had been in the Senate for years that it was allowed so a couple years ago you changed the rule, Rule 29, to allow members to refer to each other by name. That is totally acceptable in the State Senate. The second issue that comes up is alluding to the House of Representatives. It's not whether you say, 'House of Representatives'; it's whether you're alluding to actions of past, present or future of the House of Representatives to influence the passage of legislation on this floor that is not allowed. You can reference the House of Representatives but not in reference to whether or not it will effect or have anything to do with the legislation that you are dealing with on the floor of the Senate. That is Reed's Rule 224. Thank you for your consideration of these issues and for asking for clarification."

#### SECOND READING

SENATE BILL NO. 5000, by Senators Haugen, Ericksen, Hatfield, Schoesler, Shin, Conway, Tom, Sheldon and Kilmer

Mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence.

#### MOTION

On motion of Senator Haugen, Second Substitute Senate Bill No. 5000 was substituted for Senate Bill No. 5000 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Honeyford be adopted:

On page 3, line 3, after "vehicle" insert "or farm transport vehicle"

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Honeyford on page 3, line 3 to Second Substitute Senate Bill No. 5000.

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

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5000 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5000.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5000 and the bill

passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Hewitt and Kastama

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5000, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator White, Senator Prentice was excused.

#### SECOND READING

SENATE BILL NO. 5366, by Senators Delvin, Hewitt and Stevens

Authorizing the use of four-wheel, all-terrain vehicles on public roadways under certain conditions. Revised for 1st Substitute: Authorizing the use of two or four-wheel, all-terrain vehicles on public roadways under certain conditions.

#### MOTION

On motion of Senator Delvin, Substitute Senate Bill No. 5366 was substituted for Senate Bill No. 5366 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Delvin moved that the following amendment by Senators Delvin, Hatfield and Schoesler be adopted:

On page 2, line 22, after "(2)" insert "A person who operates a two or four-wheel, all-terrain vehicle under this section must pay a maximum of thirty dollars for the annual vehicle license fee for the all-terrain vehicle.

(3)"

Remember the remaining subsections consecutively and correct any internal references accordingly.

On page 3, after line 2, insert the following:

"Sec. 2. RCW 46.09.360 and 2006 c 212 s 4 are each amended to read as follows:

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter. However, the legislative body of a city with a population of ~~((less))~~ fewer than three thousand persons, or the legislative body of a county with a population of no more than five thousand persons, may, by ordinance, designate a street, road, or highway within its boundaries to be suitable for use by off-road vehicles. The legislative body of a county with a population of more than five thousand persons may, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a

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population of ((less)) fewer than three thousand persons and an off-road vehicle recreation facility.

NEW SECTION. **Sec. 3.** This act takes effect March 1, 2012."

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Delvin to the amendment be adopted:

On page 1, line 3 of the amendment, after "of" strike "thirty" and insert "thirty-five"

Senator Haugen spoke in favor of adoption of the amendment to the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Delvin on page 1, line 3 to the amendment to Substitute Senate Bill No. 5366.

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

Senator Delvin spoke in favor of adoption of the amendment as amended.

The President declared the question before the Senate to be the adoption of the amendment by Senator Delvin and others on page 2, line 22 as amended to Substitute Senate Bill No. 5366.

The motion by Senator Delvin carried and the amendment as amended was adopted by voice vote.

#### MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler and others be adopted:

On page 3, after line 2, insert the following:

"**Sec. 2.** RCW 46.09.360 and 2006 c 212 s 4 are each amended to read as follows:

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter. However, the legislative body of a city with a population of ((less)) fewer than three thousand persons, or the legislative body of a county with a population of no more than five thousand persons, may, by ordinance, designate a street, road, or highway within its boundaries to be suitable for use by off-road vehicles. The legislative body of a county with a population of more than five thousand persons may, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a population of ((less)) fewer than three thousand persons and an off-road vehicle recreation facility."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "authorizing the use of off-road vehicles on public roadways under certain conditions or in certain areas; amending RCW 46.09.360; adding a new section to chapter 46.09 RCW; and prescribing penalties."

#### WITHDRAWAL OF AMENDMENT

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On motion of Senator Schoesler, the amendment by Senator Schoesler and others on page 3, line 2 to Substitute Senate Bill No. 5366 was withdrawn.

#### MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "authorizing the use of off-road vehicles on public roadways under certain conditions or in certain areas; amending RCW 46.09.360; adding a new section to chapter 46.09 RCW; prescribing penalties; and providing an effective date."

#### MOTION

On motion of Senator Delvin, the rules were suspended, Engrossed Substitute Senate Bill No. 5366 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Delvin, Haugen and Kline spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Ranker, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5366.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5366 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 0; Excused, 3.

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

Voting nay: Senators Baumgartner, Ericksen, Holmquist Newbry, Stevens and Zarelli

Excused: Senators Brown, Hewitt and Kastama

ENGROSSED SUBSTITUTE SENATE BILL NO. 5366, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5250, by Senators Haugen, King, White and Swecker

Concerning the design-build procedure for certain projects.

#### MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5250 was substituted for Senate Bill No. 5250 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 5250 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5250.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5250 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5250, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5589, by Senator Morton

Addressing heavy haul industrial corridors.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, Senate Bill No. 5589 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5589.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5589 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Hewitt and Kastama

SENATE BILL NO. 5589, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5791, by Senators Hobbs, Fain, King, Haugen and White

Allowing certain commercial activity at certain park and ride lots.

#### MOTIONS

On motion of Senator Hobbs, Substitute Senate Bill No. 5791 was substituted for Senate Bill No. 5791 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 5791 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5791.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5791 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5791, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5796, by Senators Haugen, King and Shin

Concerning public transportation systems. Revised for 1st Substitute: Modifying provisions related to public transportation system planning.

#### MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5796 was substituted for Senate Bill No. 5796 and the substitute bill was placed on the second reading and read the second time.

Senator Haugen spoke in favor of the substitute bill.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5796 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5796.

#### ROLL CALL



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The Secretary called the roll on the final passage of Substitute Senate Bill No. 5796 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5796, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5797, by Senators Fain and Haugen

Eliminating the urban arterial trust account.

## MOTIONS

On motion of Senator Fain, Substitute Senate Bill No. 5797 was substituted for Senate Bill No. 5797 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fain, the rules were suspended, Substitute Senate Bill No. 5797 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fain spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5797.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5797 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5797, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5836, by Senators King, Haugen, Hobbs, Delvin and Shin

Allowing certain private transportation providers to use certain public transportation facilities.

On motion of Senator King, Substitute Senate Bill No. 5836 was substituted for Senate Bill No. 5836 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator King, the rules were suspended, Substitute Senate Bill No. 5836 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5836.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5836 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5836, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Ericksen, Senator Hill was excused.

## SECOND READING

SENATE BILL NO. 5386, by Senator Pridemore

Creating an organ donation work group.

## MOTIONS

On motion of Senator Pridemore, Substitute Senate Bill No. 5386 was substituted for Senate Bill No. 5386 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Substitute Senate Bill No. 5386 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5386.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5386 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Hewitt, Hill and Kastama  
SUBSTITUTE SENATE BILL NO. 5386, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5171, by Senators Hobbs, Roach, Swecker, Pridemore, Shin, King, Kilmer, Hill, Keiser and McAuliffe

Facilitating voting for service and overseas voters.

## MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5171 was substituted for Senate Bill No. 5171 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.04.255 and 2004 c 266 s 5 are each amended to read as follows:

The secretary of state or a county auditor shall accept and file in his or her office electronic (~~facsimile~~) transmissions of the following documents:

- (1) Declarations of candidacy;
- (2) County canvass reports;
- (3) Voters' pamphlet statements;
- (4) Arguments for and against ballot measures that will appear in a voters' pamphlet;
- (5) Requests for recounts;
- (6) Certification of candidates and measures by the secretary of state;
- (7) Direction by the secretary of state for the conduct of a (~~mandatory~~) recount;
- (8) Requests for (~~absentee~~) ballots;
- (9) Any other election related document authorized by rule adopted by the secretary of state under RCW (~~29A.04.610~~) 29A.04.611.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

(~~If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy must be subsequently filed with the official with whom the facsimile was filed. The original copy must be filed by a deadline established by the secretary by rule.~~) The secretary may by rule require that the original of any document, a copy of which is filed by (~~facsimile~~) electronic transmission under this section, also be filed by a deadline established by the secretary by rule.

**Sec. 2.** RCW 29A.04.311 and 2006 c 344 s 1 are each amended to read as follows:

(~~Nominating~~) Primaries for general elections to be held in November, and the election of precinct committee officers, must be held on the (~~third~~) first Tuesday of the preceding August.

**Sec. 3.** RCW 29A.04.321 and 2009 c 413 s 2 are each amended to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, and district officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A statewide general election shall be held on the first Tuesday after the first Monday of November of each year. However, the statewide general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29A.04.330, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the Congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may call a special county election by presenting a resolution to the county auditor prior to the proposed election date. A special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

- (a) The second Tuesday in February;
- (b) The third Tuesday in April until January 1, 2013;
- (c) The fourth Tuesday in April on or after January 1, 2013;
- (~~(e)~~) (d) The day of the primary as specified by RCW 29A.04.311; or
- (~~(d)~~) (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) (~~and (b)~~) through (c) of this section must be presented to the county auditor at least (~~forty-five~~) forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)(~~(e)~~) (d) of this section must be presented to the county auditor (~~at least eighty-four days prior to the election date~~) no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)(e) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to the dates set forth in subsection (2)(a) through (~~(d)~~) (e) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections (~~except for those elections held pursuant to a home rule charter~~

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adopted under Article XI, section 4 of the state Constitution)). This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

**Sec. 4.** RCW 29A.04.330 and 2009 c 413 s 4, 2009 c 144 s 3, and 2009 c 413 s 3 are each reenacted and amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

(a) Elections for the recall of any elective public officer;

(b) Public utility districts, conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;

(c) Consolidation proposals as provided for in RCW 28A.315.235 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW; and

(d) Special flood control districts consisting of three or more counties.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor prior to the proposed election date, may call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Such a special election shall be held on one of the following dates as decided by the governing body:

(a) The second Tuesday in February;

(b) The third Tuesday in April until January 1, 2013;

(c) The fourth Tuesday in April on or after January 1, 2013;

~~((e))~~ (d) The day of the primary election as specified by RCW 29A.04.311; or

~~((d))~~ (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) ~~(and (b))~~ through (c) of this section must be presented to the county auditor at least ~~((forty-five))~~ forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection 2)~~((e)-or)~~ (d) of this section must be presented to the county auditor ~~((at least eighty-four days prior to the election date))~~ no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection 2)(e) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to subsection (2)(a) through ~~((d))~~ (e) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection 2)~~((e) and)~~ (d) and (e) of this section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

**Sec. 5.** RCW 29A.16.040 and 2004 c 266 s 10 are each amended to read as follows:

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts and establish the boundaries of the precincts. The county auditor shall thereupon designate the voting

place for each such precinct or whether the precinct is a vote by mail precinct.

(1) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored. Except as permitted under subsection (5) of this section, no precinct ~~((boundaries))~~ changes may be ~~((changed))~~ made during the period starting ~~((on the thirtieth))~~ fourteen days prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(2) The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for such precincts and the number may be less than the number established by law, but in no case may the number exceed that authorized by law.

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred active registered voters. The number of poll-site ballot counting devices at each polling place is at the discretion of the auditor. The number of devices must be adequate to meet the expected voter turnout.

(4) On petition of twenty-five or more voters resident more than ten miles from any polling site, the county legislative authority shall establish a separate voting precinct therefor.

(5) The county auditor shall temporarily adjust precinct boundaries when a city or town annexes unincorporated territory to the city or town, or whenever unincorporated territory is incorporated as a city or town. The adjustment must be made as soon as possible after the approval of the annexation or incorporation. The temporary adjustment must be limited to the minimum changes necessary to accommodate the addition of the territory to the city or town, or to establish the eligible voters within the boundaries of the new city or town, and remains in effect only until precinct boundary modifications reflecting the annexation or incorporation are adopted by the county legislative authority.

(6) In determining the number of active registered voters for the purposes of this section, persons who are ongoing absentee voters under RCW 29A.40.040 shall not be counted. Nothing in this subsection may be construed as altering the vote tallying requirements of RCW 29A.60.230.

**Sec. 6.** RCW 29A.24.040 and 2006 c 344 s 5 are each amended to read as follows:

A candidate may file his or her declaration of candidacy for an office by electronic means on a system specifically designed and authorized by a filing officer to accept filings.

(1) Filings that are received electronically must capture all information specified in RCW 29A.24.031 (1) through (4).

(2) Electronic filing may begin at 9:00 a.m. the first ~~((Monday in June))~~ day of the filing period and continue through 4:00 p.m. the ~~((following Friday))~~ last day of the filing period.

~~((3) In case of special filing periods established in this chapter, electronic filings may be accepted beginning at 9:00 a.m. on the first day of the special filing period through 4:00 p.m. the last day of the special filing period.))~~

**Sec. 7.** RCW 29A.24.050 and 2006 c 344 s 6 are each amended to read as follows:

Except where otherwise provided by this title, declarations of candidacy for the following offices shall be filed during regular business hours with the filing officer ~~((no earlier than the first Monday in June))~~ beginning the Monday two weeks before Memorial day and ~~((no later than))~~ ending the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices.

**Sec. 8.** RCW 29A.24.131 and 2004 c 271 s 115 are each amended to read as follows:

A candidate may withdraw his or her declaration of candidacy at any time before the close of business on the ~~((Thursday))~~ Monday following the last day for candidates to file under RCW 29A.24.050 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under this title. ~~((The filing officer may permit the withdrawal of a filing for the office of precinct committee officer at the request of the candidate at any time if no absentee ballots have been issued for that office and the ballots for that precinct have not been printed. The filing officer may permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary ballots for that city, town, or special district have not been ordered.))~~ No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files.

**Sec. 9.** RCW 29A.24.141 and 2004 c 271 s 162 are each amended to read as follows:

A void in candidacy ~~((for a nonpartisan office))~~ occurs when an election ~~((for such office, except for the short term,))~~ has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified.

**Sec. 10.** RCW 29A.24.171 and 2006 c 344 s 7 are each amended to read as follows:

~~((Filings for a nonpartisan office shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law whenever before the eleventh Tuesday prior to a primary;~~

— (1) A void in candidacy occurs;

— (2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or

— (3) A nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

~~— Candidacies validly filed within said three day period shall appear on the ballot as if made during the earlier filing period.))~~ If, prior to the first day of the regular filing period, a vacancy occurs in an office that is not scheduled to appear on the general election ballot, leaving an unexpired term for which a successor must be elected at the next general election, filings for that office shall be accepted during the regular filing period. The filing officer shall provide notice of the vacancy and filing period to newspapers, radio, and television in the county, and online. The position shall appear on the primary and general election ballots unless no primary is required or unless a candidate for superior court judge is entitled to a certificate of election pursuant to Article 4, section 29 of the state Constitution.

**Sec. 11.** RCW 29A.24.181 and 2006 c 344 s 8 are each amended to read as follows:

~~((Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction)) If, prior to the day of the primary, any of the following occur, filings shall be reopened for a period of three normal business days, such three-day period to be fixed by the (election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when) filing officer:~~

(1) A void in candidacy ~~((for such nonpartisan office))~~ occurs ~~((on or after the eleventh Tuesday prior to a primary but prior to the eleventh Tuesday before an election))~~ following the regular filing period and deadline to withdraw; or

(2) ~~((A nominee for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten day period immediately following the last day allotted for a candidate to withdraw; or~~

~~— (3) A vacancy occurs in any nonpartisan office on or after the eleventh Tuesday prior to a primary but prior to the eleventh Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.))~~ A vacancy occurs in an office for which filings have not already been held, leaving an unexpired term for which a successor must be elected at the next general election.

The filing officer shall provide notice of the vacancy and filing period to newspapers, radio, and television in the county, and online. The position shall appear on the general election ballots unless a candidate for superior court judge is entitled to a certificate of election pursuant to Article 4, section 29 of the state Constitution.

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected. This section does not apply to voids in candidacy in the office of precinct committee officer, which are filled by appointment pursuant to RCW 29A.28.071.

**Sec. 12.** RCW 29A.24.191 and 2006 c 344 s 9 are each amended to read as follows:

A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when(:

— (1) ~~In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the eleventh Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;~~

— (2) ~~Except as otherwise specified in RCW 29A.24.181, a nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the eleventh Tuesday prior to a primary;~~

— (3) ~~In other elections for nonpartisan office))~~ a void in candidacy occurs ~~((or a vacancy occurs involving an unexpired term to be filled on or after the eleventh Tuesday prior to an election))~~ following the special three day filing period required by RCW 29A.24.181.

**Sec. 13.** RCW 29A.24.311 and 2004 c 271 s 117 are each amended to read as follows:

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may file a declaration of candidacy with the officer designated in RCW 29A.24.070 not later than the day ~~((before the primary or election))~~ ballots must be mailed according to RCW 29A.40.070. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in RCW 29A.24.091.

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Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by major political parties pursuant to RCW 29A.28.021 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if the manner in which the write-in is done does not make the office or position clear.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29A.24.031. No write-in candidate filing under this section may be included in any voter's pamphlet produced under chapter 29A.32 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29A.32 RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

**Sec. 14.** RCW 29A.28.041 and 2006 c 344 s 12 are each amended to read as follows:

(1) Whenever a vacancy occurs in the United States house of representatives or the United States senate from this state, the governor shall order a special election to fill the vacancy. Minor political party candidates and independent candidates may be nominated through the convention procedures provided in chapter 29A.20 RCW.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the ~~((special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating major political party candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists))~~ primary at least seventy days after issuance of the writ, and fixing a date for the election at least seventy days after the date of the primary. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than ~~((six))~~ eight months before a state general election and before the ~~((second Friday following the))~~ close of the filing period for that general election, the special primary, special vacancy election, and minor party and independent candidate nominating conventions must be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29A.24.050 and on or before the ~~((second Friday following the))~~ close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. ~~((The last day of the filing period shall not be later than the sixth Tuesday before the primary at which major political party candidates are to be nominated.))~~ The names of major political

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party candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot. The requirements of RCW 29A.20.131 do not apply to a minor political party or independent candidate convention held under this subsection.

(5) If the vacancy occurs later than the ~~((second Friday following the))~~ close of the filing period, a special primary ~~((special))~~ and vacancy election ~~((and the minor party and independent candidate conventions))~~ to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

**Sec. 15.** RCW 29A.36.010 and 2005 c 2 s 12 are each reenacted and amended to read as follows:

~~((On or before the day following the last day allowed for candidates to withdraw under RCW 29A.24.130))~~ Not later than the Tuesday following the regular filing period, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party preference or independent designation as shown on filed declarations.

**Sec. 16.** RCW 29A.40.070 and 2006 c 344 s 13 are each amended to read as follows:

(1) Except where a recount or litigation ~~((under RCW 29A.68.011))~~ is pending, the county auditor ~~((shall have sufficient absentee ballots available for absentee voters of that county, other than overseas voters and service voters, at least twenty days before any primary, general election, or special election. The county auditor))~~ must mail ~~((absentee))~~ ballots to each voter ~~((for whom the county auditor has received a request nineteen days before the primary or election))~~ at least eighteen days before ~~((the))~~ each primary or election, and as soon as possible for all subsequent registration changes. ~~((For a request for an absentee ballot received after the nineteenth day before the primary or election, the county auditor shall make every effort to mail ballots within one business day, and shall mail the ballots within two business days)).~~

(2) ~~((At least thirty days before any primary, general election, or special election, the county auditor shall mail ballots to all overseas and service voters.))~~ Except where a recount or litigation is pending, the county auditor must mail ballots to each service and overseas voter at least thirty days before each special election and at least forty-five days before each primary or general election. A request for a ballot made by an overseas or service voter after that day must be processed immediately.

(3) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter. The voter may obtain the ballot by telephone request, by mail, electronically, or in person. The county auditor shall keep a record of each request for a replacement ballot.

(4) Each county auditor shall certify to the office of the secretary of state the dates the ballots ~~((prescribed in subsection (1) of this section were available and))~~ were mailed, or the reason and date the ballots will be mailed if the ballots were not mailed timely.

~~((4) If absentee ballots will not be available or mailed as prescribed in subsection (1) of this section, the county auditor shall immediately certify to the office of the secretary of state when absentee ballots will be available and mailed. Copies of this certification must be provided to the county canvassing board, the press, jurisdictions with issues on the ballot in the election, and any candidates.~~

~~((5) If absentee ballots were not available or mailed as prescribed in subsection (1) of this section, for a reason other than a recount or litigation, the county auditor, in consultation with the certification and training program of the office of the secretary of state, shall submit a report to the office of the secretary of state outlining why~~

~~the deadline was missed and what corrective actions will be taken in future elections to ensure that absentee ballots are available and mailed as prescribed in subsection (1) of this section.~~

~~—(6)) Failure to ((have absentee ballots available and mailed)) mail ballots as prescribed in ((subsection (1) of)) this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.~~

**Sec. 17.** RCW 29A.40.091 and 2010 c 125 s 1 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return ((it)) the ballot to the county auditor.

(2) The ((instructions that accompany a ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the voter reciting his or her qualifications and stating that he or she)) voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election((together with a summary of the penalties for any violation of any of the provisions of this chapter)). The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and((except as otherwise provided by law)) it is illegal to cast a ballot or sign a return envelope on behalf of another voter. The ((return envelope must provide space for the)) voter ((to)) must indicate the date on which the ballot was voted and ((for the voter to)) sign the ((oath)) declaration. ((It)) The ballot materials must also contain a space so that the voter may include a telephone number. ((A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope may provide secrecy for the voter's signature and optional telephone number.))

(3) For overseas and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor ((by whom it was issued)) no later than 8:00 p.m. the day of the election or primary, or ((attach sufficient first class postage, if applicable, and)) mail the ballot to the ((appropriate)) county auditor with a postmark no later than the day of the election or primary ((for which the ballot was issued).

~~—If the county auditor chooses to forward ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed).~~

**Sec. 18.** RCW 29A.40.110 and 2009 c 369 s 40 are each amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received ((absentee)) return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until ((after 8:00 p.m. of the day of the primary or election)) processing. ((Absentee ballots that are to be tabulated on an electronic vote tallying system)) Ballots may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) ((Before opening a returned absentee ballot,) The canvassing board, or its designated representatives, shall examine the postmark((-statement,)) on the return envelope and signature on the ((return envelope that contains the security envelope and absentee ballot)) declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ((return envelope)) ballot declaration is the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. ((For any absentee ballot,) A variation between the signature of the voter on the ((return envelope)) ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

(4) ((For registered voters casting absentee ballots)) If the postmark is missing or illegible, the date on the ((return envelope)) ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ((absentee)) ballot ((if the postmark is missing or is illegible)). For overseas voters and service voters, the date on the ((return envelope)) declaration to which the voter has attested determines the validity, as to the time of voting, for that ((absentee)) ballot. Any overseas voter or service voter may return the signed declaration and voted ballot by fax or email by 8:00 p.m. on the day of the primary or election.

**Sec. 19.** RCW 29A.56.030 and 2006 c 344 s 15 are each amended to read as follows:

The name of any candidate for a major political party nomination for president of the United States shall be printed on the presidential preference primary ballot of a major political party only:

(1) By direction of the secretary of state, who in the secretary's sole discretion has determined that the candidate's candidacy is generally advocated or is recognized in national news media; or

(2) If members of the political party of the candidate have presented a petition for nomination of the candidate that has attached to the petition a sheet or sheets containing the signatures of at least one thousand registered voters who declare themselves in the petition as being affiliated with the same political party as the presidential candidate. The petition shall be filed with the secretary of state not later than ((sixty)) seventy-five days before the presidential preference primary. The signature sheets shall also contain the residence address and name or number of the precinct of each registered voter whose signature appears thereon and shall be certified in the manner prescribed in RCW 29A.72.230 and 29A.72.240.

The secretary of state shall place the name of the candidate on the ballot unless the candidate, at least ((fifty-two)) sixty-seven days before the presidential preference primary, executes and files with

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the secretary of state an affidavit stating without qualification that he or she is not now and will not become a candidate for the office of president of the United States at the forthcoming presidential election. The secretary of state shall certify the names of all candidates who will appear on the presidential preference primary ballot to the respective county auditors on or before the fourth Tuesday in April of each presidential election year.

**Sec. 20.** RCW 29A.60.190 and 2006 c 344 s 16 are each amended to read as follows:

(1) Except as provided by subsection ~~((3))~~ (2) of this section, ~~((fifteen))~~ fourteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. The county canvassing board must complete the canvass and certify the results of the April 17, 2012, special election ten days after election day. Each ~~((absentee))~~ ballot that was returned before ~~((the closing of the polls))~~ 8:00 p.m. on the day of the special election, general election, or primary, and each ~~((absentee))~~ ballot bearing a postmark on or before the date of the ~~((primary or))~~ special election, general election, or primary and received ~~((on or before the date on which the primary or election is certified))~~ no later than the day before certification, must be included in the canvass report.

(2) ~~((At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.~~

~~—(3))~~ On or before the thirtieth day after an election conducted under the instant runoff voting method for the pilot project authorized by RCW 29A.53.020, the canvassing board shall complete the canvass and certify the results.

**Sec. 21.** RCW 29A.60.190 and 2006 c 344 s 17 are each amended to read as follows:

~~((1) Fifteen))~~ Fourteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each ~~((absentee))~~ ballot that was returned before ~~((the closing of the polls))~~ 8:00 p.m. on the day of the special election, general election, or primary, and each ~~((absentee))~~ ballot bearing a postmark on or before the date of the ~~((primary or))~~ special election, general election, or primary and received ~~((on or before the date on which the primary or election is certified))~~ no later than the day before certification, must be included in the canvass report.

~~((2) At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.)~~

**Sec. 22.** RCW 29A.60.240 and 2003 c 111 s 1524 are each amended to read as follows:

The secretary of state shall, as soon as possible but in any event not later than ~~((the third Tuesday))~~ seventeen days following the primary, canvass and certify the returns of all primary elections as to candidates for state offices, United States senators and representatives in Congress, and all other candidates whose district extends beyond the limits of a single county.

**Sec. 23.** RCW 29A.64.011 and 2004 c 271 s 177 are each amended to read as follows:

An officer of a political party or any person for whom votes were cast in a primary who ~~((was not declared nominated))~~ did not qualify for the general election may file a written application for a recount of the votes or a portion of the votes cast at that primary for all persons for whom votes were cast for ~~((nomination to))~~ that office.

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An officer of a political party or any person for whom votes were cast at any election may file a written application for a recount of the votes or a portion of the votes cast at that election for all candidates for election to that office.

Any group of five or more registered voters may file a written application for a recount of the votes or a portion of the votes cast upon any question or issue. They shall designate one of the members of the group as chair and shall indicate the voting residence of each member of the group.

An application for a recount of the votes cast for an office or on a ballot measure must be filed with the officer with whom filings are made for the jurisdiction.

An application for a recount must specify whether the recount will be done manually or by the vote tally system. A recount done by the vote tally system must use programming that recounts and reports only the office or ballot measure in question. The county shall also provide for a test of the logic and accuracy of that program.

An application for a recount must be filed within ~~((three))~~ two business days after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

This chapter applies to the recounting of votes cast by paper ballots and to the recounting of votes recorded on ballots counted by a vote tally system.

**Sec. 24.** RCW 29A.64.030 and 2005 c 243 s 20 are each amended to read as follows:

An application for a recount shall state the office for which a recount is requested and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application for a manual recount shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to twenty-five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. If the application is for a machine recount, the deposit must be equal to fifteen cents for each ballot. These charges shall be determined by the county canvassing board or boards under RCW 29A.64.081.

The county canvassing board shall determine the date, time, and place or places at which the recount will be conducted. Not less than ~~((two days))~~ one day before the date of the recount, the county auditor shall ~~((mail a notice of the time and place of the recount to))~~ notify the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office of the date, time, and place of the recount. ~~((The county auditor shall also notify the affected parties by either telephone, fax, e-mail, or other electronic means at the time of mailing. At least three attempts must be made over a two-day period to notify the affected parties or until the affected parties have received the notification. Each attempt to notify affected parties must request a return response indicating that the notice has been received.))~~ Each person entitled to receive notice of the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount.

**Sec. 25.** RCW 29A.68.011 and 2007 c 374 s 3 are each amended to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why

the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the official certification of the election.

An affidavit of an elector under subsections (1) and (3) of this section when relating to a primary election must be filed with the appropriate court no later than ~~((the second Friday))~~ two days following the closing of the filing period ~~((for nominations))~~ for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the official certification of the election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.

**Sec. 26.** RCW 29A.76.010 and 2003 c 111 s 1901 are each amended to read as follows:

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) No later than eight months after its receipt of federal decennial census data, the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. The municipal corporation, county, or district shall hold at least one public hearing on the redistricting plan at least one week before adoption of the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within ~~((forty-five))~~ fifteen days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

**Sec. 27.** RCW 42.12.070 and 1994 c 223 s 1 are each amended to read as follows:

A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first-class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.



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(6) As provided in ((~~RCW 29.15.190 and 29.21.410~~)) chapter 29A.24 RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected ((~~that occurs twenty eight or more days after the occurrence of the vacancy~~)). If needed, special filing periods shall be authorized as provided in ((~~RCW 29.15.170 and 29.15.180~~)) chapter 29A.24 RCW for qualified persons to file for the vacant office. A primary shall be held to ((~~nominate~~)) qualify candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, a primary shall not be held and the person receiving the greatest number of votes shall be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

If an election for the position that became vacant would otherwise have been held at this general election date, only one election to fill the position shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW ((~~29.01.135~~)) 29A.04.133 and shall service both the remainder of the unexpired term and the succeeding term.

**NEW SECTION. Sec. 28.** The following acts or parts of acts are each repealed:

(1) RCW 29A.04.310 (Primaries) and 2005 c 2 s 8, 2003 c 111 s 143, 1977 ex.s. c 361 s 29, 1965 ex.s. c 103 s 6, & 1965 c 9 s 29.13.070;

(2) RCW 29A.24.151 (Notice of void in candidacy) and 2004 c 271 s 163;

(3) RCW 29A.24.161 (Filings to fill void in candidacy--How made) and 2004 c 271 s 164;

(4) RCW 29A.24.210 (Vacancy in partisan elective office--Special filing period) and 2005 c 2 s 10 & 2003 c 111 s 621;

(5) RCW 29A.24.211 (Vacancy in partisan elective office--Special filing period) and 2006 c 344 s 10 & 2004 c 271 s 116;

(6) RCW 29A.36.011 (Certifying primary candidates) and 2004 c 271 s 124; and

(7) RCW 29A.40.150 (Overseas, service voters) and 2009 c 415 s 12, 2006 c 206 s 7, 2005 c 245 s 1, 2003 c 111 s 1015, 1993 c 417 s 7, 1987 c 346 s 19, & 1983 1st ex.s. c 71 s 8.

**NEW SECTION. Sec. 29.** 2005 c 2 s 15 is repealed.

**NEW SECTION. Sec. 30.** Section 21 of this act takes effect July 1, 2013.

**NEW SECTION. Sec. 31.** Section 20 of this act expires July 1, 2013.

**NEW SECTION. Sec. 32.** With the exception of sections 21 and 29 of this act, this act takes effect January 1, 2012.

**NEW SECTION. Sec. 33.** Section 29 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5171.

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

**MOTION**

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

On page 1, line 2 of the title, after "voters;" strike the remainder of the title and insert "amending RCW 29A.04.255, 29A.04.311, 29A.04.321, 29A.16.040, 29A.24.040, 29A.24.050, 29A.24.131, 29A.24.141, 29A.24.171, 29A.24.181, 29A.24.191, 29A.24.311, 29A.28.041, 29A.40.070, 29A.40.091, 29A.40.110, 29A.56.030, 29A.60.190, 29A.60.190, 29A.60.240, 29A.64.011, 29A.64.030, 29A.68.011, 29A.76.010, and 42.12.070; reenacting and amending RCW 29A.04.330 and 29A.36.010; repealing RCW 29A.04.310, 29A.24.151, 29A.24.161, 29A.24.210, 29A.24.211, 29A.36.011, and 29A.40.150; repealing 2005 c 2 s 15; prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency."

**MOTION**

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 5171 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator White spoke on final passage of the bill.

**POINT OF INQUIRY**

Senator White: "If the gentleman from the Fourth-Fourth District would yield to a question? I would just like to get one clarification regarding the signing of declaration of privacy related to ballots for military voters?"

President Owen: "He does not yield."

Senators Hargrove and Roach spoke against passage of the bill.

**MOTION**

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5171 was deferred and the bill held its place on the third reading calendar.

**SECOND READING**

SENATE BILL NO. 5427, by Senator McAuliffe

Regarding an assessment of students in state-funded full-day kindergarten classrooms.

**MOTIONS**

On motion of Senator McAuliffe, Second Substitute Senate Bill No. 5427 was substituted for Senate Bill No. 5427 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Second Substitute Senate Bill No. 5427 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Litzow, Tom, Brown, Shin and Murray spoke in favor of passage of the bill.

Senators Zarelli and Parlette spoke against passage of the bill.

**POINT OF INQUIRY**

Senator Carrell: "Would Senator McAuliffe yield to a question? I'm just reading on the second page of the bill, if I

could ask you a question and clarification something. It says beginning with the 2012-13 school year to the extent funds are available 'identify the skills', understood, 'knowledge' and then it says 'characteristics.' Could you help me understand what characteristics this bill would be looking at?"

Senator McAuliffe: "I think to really define that right here and now, it's probably not going to be ok. I think I'd really like to talk to the stakeholders to find out what they see when they do the pilots. When I have seen the pilot, Senator. I have seen them look to see whether a child had a learning need, whether they were socially or emotionally developed as the other children were. Those are the kinds of things that I have observed. However, I would not want to clearly define every characteristic but in visiting the pilots you can see that they look for different characteristics that children have and what they are learning needs, social needs and emotional needs might be."

Senator Benton spoke against passage of the bill.

#### MOTION

On motion of Senator Pridemore, Senator Hobbs was excused.

Senators Schoesler and Roach spoke against passage of the bill.

#### MOTION

On motion of Senator Ranker, Senators Hatfield and Hobbs were excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5427.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5427 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Ranker, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Honeyford, Morton, Parlette, Pridemore, Regala, Roach, Schoesler, Stevens and Zarelli

Excused: Senators Hewitt, Hill and Kastama

SECOND SUBSTITUTE SENATE BILL NO. 5427, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 4:10 p.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of caucuses.

#### EVENING SESSION

The Senate was called to order at 6:10 p.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 5432, by Senators Regala, Chase, Fraser, Rockefeller and Nelson

Reducing pollution from wood stoves. Revised for 1st Substitute: Reducing pollution from solid fuel burning devices and fireplaces.

#### MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5432 was substituted for Senate Bill No. 5432 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5432 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Honeyford and Tom spoke in favor of passage of the bill.

#### PARLIAMENTARY INQUIRY

Senator Honeyford: "If those terms are verbatim, how may we refer to that, those other people?"

#### REMARKS BY THE PRESIDENT

President Owen: "You may not. Your rules do not allow you to reference the actions of the other body of what they may do or have done or are doing to influence the passage of a piece of legislation in this body. You may not allude to the other house no matter how you call them. Period. One last clarification, when you get into conference or you get into disputes between the two houses of course then it's necessary to do so but as you are deciding on pieces of legislation here and House bills here you may not reference the other body in any manner."

#### PARLIAMENTARY INQUIRY

Senator Honeyford: "May we refer them as the unmentionables?"

#### POINT OF INQUIRY

Senator Roach: "May I ask a question of the maker of the bill?"

President Owen: "She does not yield."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5432.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5432 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Haugen, Honeyford, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hatfield, Hobbs, Holmquist Newbry, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

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Excused: Senators Hewitt and Hill

SUBSTITUTE SENATE BILL NO. 5432, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5304, by Senators Kilmer, Brown, Rockefeller, Tom, Murray, McAuliffe and Shin

Requiring forecasting of caseloads of the state need grant program and the Washington college bound scholarship program.

The measure was read the second time.

MOTION

On motion of Senator Kilmer, the rules were suspended, Senate Bill No. 5304 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5304.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5304 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Benton, Carrell, Delvin, Honeyford, King, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Hewitt and Hill

SENATE BILL NO. 5304, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5377, by Senators Morton, Swecker and Stevens

Concerning developer control of homeowners' associations.

The measure was read the second time.

MOTION

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

On page 4, line 26, after "~~cause~~.)" insert "Any meeting by the board of directors must be held at a time and place that is convenient for the homeowners of the association. A convenient time is between five o'clock p.m. and nine o'clock p.m. on a weekday or between nine o'clock a.m. and five o'clock p.m. on a Saturday or Sunday. A

convenient place means a location within twenty miles from any property subject to the governing documents.

(5)"

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

Senators Morton and Hobbs spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Morton on page 4, line 26 to Senate Bill No. 5377.

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

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Senate Bill No. 5377 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator White, Senator Shin was excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5377.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5377 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Hewitt, Hill and Shin

ENGROSSED SENATE BILL NO. 5377, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

SECOND READING

SENATE BILL NO. 5161, by Senators Fain, Schoesler, Holmquist Newbry, Conway, Delvin, Carrell, Murray, Hobbs, Pridemore and Rockefeller

Addressing the definition of employer for certain public corrections entities formed by counties or cities under RCW 39.34.030.

The measure was read the second time.

MOTION

On motion of Senator Fain, the rules were suspended, Senate Bill No. 5161 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fain spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5161.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5161 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Hewitt, Hill and Shin

SENATE BILL NO. 5161, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5658, by Senators King, Haugen and Shin

Concerning the sale or exchange of surplus real property by the department of transportation.

#### MOTIONS

On motion of Senator King, Substitute Senate Bill No. 5658 was substituted for Senate Bill No. 5658 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator King, the rules were suspended, Substitute Senate Bill No. 5658 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5658.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5658 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Hewitt, Hill, Pflug and Shin  
SUBSTITUTE SENATE BILL NO. 5658, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5662, by Senators Conway, Chase, Kline, Shin, Keiser, Kohl-Welles, White, Roach, Hobbs, Nelson, Prentice, Haugen and Fraser

Establishing a preference for resident contractors on public works. Revised for 2nd Substitute: Concerning preferences for in-state contractors bidding on public works.

#### MOTIONS

On motion of Senator Conway, Second Substitute Senate Bill No. 5662 was substituted for Senate Bill No. 5662 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Conway, the rules were suspended, Second Substitute Senate Bill No. 5662 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Zarelli spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5662.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5662 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Delvin, Ericksen, Honeyford, King, Litzow, Morton, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Hewitt, Hill, Pflug and Shin

SECOND SUBSTITUTE SENATE BILL NO. 5662, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5633, by Senators Pridemore, Hewitt, Kastama and Swecker

Exempting agricultural fair premiums from the unclaimed property act.

The measure was read the second time.

#### MOTION

FIFTY THIRD DAY, MARCH 3, 2011

2011 REGULAR SESSION

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 5633 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5633.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5633 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Hewitt, Hill, Pflug and Shin

SENATE BILL NO. 5633, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5556, by Senators Prentice, Fain and Keiser

Concerning certain social card games in an area annexed by a city or town.

MOTIONS

On motion of Senator Prentice, Substitute Senate Bill No. 5556 was substituted for Senate Bill No. 5556 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Prentice, the rules were suspended, Substitute Senate Bill No. 5556 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5556.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5556 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

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

Voting nay: Senator Haugen

Excused: Senators Hewitt, Hill, Pflug and Shin

SUBSTITUTE SENATE BILL NO. 5556, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5039, by Senators Murray, Keiser, Hatfield, Pridemore, Conway and Chase

Concerning insurance coverage of tobacco cessation treatment in the preventative benefit required under the federal law.

MOTION

On motion of Senator Murray, Substitute Senate Bill No. 5039 was substituted for Senate Bill No. 5039 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following amendment by Senators Keiser, Parlette and Becker be adopted:

On page 2, line 18 after "medication." Strike "(4) A health plan may not impose stepped-care requirements on tobacco cessation treatments."

Senators Keiser and Parlette spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser, Parlette and Becker on page 2, line 18 to Substitute Senate Bill No. 5039.

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

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Becker be adopted:

On page 2, line 27 after "section." Strike the remaining section and all language down through line 32.

Senator Keiser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Becker on page 2, line 27 to Substitute Senate Bill No. 5039.

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

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute Senate Bill No. 5039 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Becker and Parlette spoke against passage of the bill.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5039 was deferred and the bill held its place on the third reading calendar.

MOTION

THOMAS HOEMANN, Secretary of the Senate

On motion of Senator Hobbs, Senator Hatfield was excused.

MOTION

At 7:17 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Friday, March 4, 2011.

BRAD OWEN, President of the Senate



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	Other Action .....	4	1522-S	Messages .....	5
1051-S	Introduction & 1 <sup>st</sup> Reading .....	1	1542-S	Introduction & 1 <sup>st</sup> Reading .....	2
1052	Introduction & 1 <sup>st</sup> Reading .....	1	1544	Introduction & 1 <sup>st</sup> Reading .....	2
1081-S	Messages .....	5	1547-S	Messages .....	6
1089-S	Messages .....	5	1559	Introduction & 1 <sup>st</sup> Reading .....	2
1128-S2	Messages .....	5	1565-S	Introduction & 1 <sup>st</sup> Reading .....	3
1133-S	Messages .....	5	1586	Messages .....	5
1145-S	Introduction & 1 <sup>st</sup> Reading .....	1	1593-S2	Messages .....	5
1148-S	Introduction & 1 <sup>st</sup> Reading .....	1	1599-S2	Messages .....	5
1153-S2	Introduction & 1 <sup>st</sup> Reading .....	1	1626-S	Introduction & 1 <sup>st</sup> Reading .....	3
1163-S2	Messages .....	5	1631	Messages .....	5
1169-S	Introduction & 1 <sup>st</sup> Reading .....	1	1650-S	Messages .....	5
1170-S	Introduction & 1 <sup>st</sup> Reading .....	1	1657	Introduction & 1 <sup>st</sup> Reading .....	3
1195	Introduction & 1 <sup>st</sup> Reading .....	2	1697-S	Introduction & 1 <sup>st</sup> Reading .....	3
1215	Introduction & 1 <sup>st</sup> Reading .....	2	1699-S	Messages .....	5
1222	Introduction & 1 <sup>st</sup> Reading .....	2	1703	Messages .....	5
1247-S	Introduction & 1 <sup>st</sup> Reading .....	2	1719-S	Introduction & 1 <sup>st</sup> Reading .....	3
	Other Action .....	4	1730	Introduction & 1 <sup>st</sup> Reading .....	3
1249-S	Introduction & 1 <sup>st</sup> Reading .....	2	1731-S	Messages .....	6
1362-S2	Messages .....	5	1756-S	Messages .....	5
1364	Messages .....	5	1761-S	Messages .....	5
1391	Messages .....	5	1774-S	Messages .....	6
1401-S	Messages .....	5	1776-S2	Messages .....	5
1405-S2	Messages .....	5	1808-S2	Messages .....	5
1443-S2	Messages .....	5	1829-S	Messages .....	6
1466	Introduction & 1 <sup>st</sup> Reading .....	2	1832-S	Messages .....	5
1490	Messages .....	6	1849-S	Messages .....	6
1491	Messages .....	5	1867	Introduction & 1 <sup>st</sup> Reading .....	3
1492-S	Introduction & 1 <sup>st</sup> Reading .....	2	1885-S	Introduction & 1 <sup>st</sup> Reading .....	3
1493-S	Introduction & 1 <sup>st</sup> Reading .....	2	1899-S	Introduction & 1 <sup>st</sup> Reading .....	3
1502-S	Messages .....	5	1903-S2	Messages .....	6
1507-S2	Introduction & 1 <sup>st</sup> Reading .....	2	1909-S2	Messages .....	6
1510-S2	Messages .....	5			



1916	Introduction & 1 <sup>st</sup> Reading .....	3	5427-S2	Second Reading .....	25
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5021	Second Reading .....	4	5449-S	Other Action .....	10
	Second Reading .....	4		Second Reading .....	6, 7
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	Second Reading .....	29	5556	Second Reading .....	29
5039	Second Reading .....	29	5556-S	Second Reading .....	29
	Second Reading .....	29		Third Reading Final Passage .....	29
5044	Second Reading .....	12	5575	Other Action .....	12, 13
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	Third Reading Final Passage .....	12		Third Reading Final Passage .....	16
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	Third Reading Final Passage .....	28		Third Reading Final Passage .....	29
5171	Second Reading .....	18	5658	Second Reading .....	28
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	Second Reading .....	18		Third Reading Final Passage .....	28
5250	Second Reading .....	15	5662	Second Reading .....	28
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5337	Second Reading .....	11		Third Reading Final Passage .....	16
5337-S	Second Reading .....	11	5796	Second Reading .....	16
	Third Reading Final Passage .....	11	5796-S	Second Reading .....	16
5366	Second Reading .....	14		Third Reading Final Passage .....	17
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	Third Reading Final Passage .....	27	5836-S	Second Reading .....	17
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