

NINETEENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, February 1, 2013

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Kathryn Sinn and Johnathan Bjerk, presented the Colors. Pastor Lee Ronshaugen of Lighthouse Christian Center of Puyallup offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 31, 2013

SB 5002 Prime Sponsor, Senator Honeyford: Concerning mosquito control districts. Reported by Committee on Governmental Operations

MAJORITY recommendation: That Substitute Senate Bill No. 5002 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Benton, Vice Chair; Braun; Conway; Fraser; Hasegawa, Ranking Member and Rivers.

Passed to Committee on Rules for second reading.

January 31, 2013

SB 5025 Prime Sponsor, Senator Roach: Providing that a proclamation of a state of emergency is effective upon the governor's signature. Reported by Committee on Governmental Operations

MAJORITY recommendation: Do pass. Signed by Senators Roach, Chair; Benton, Vice Chair; Braun; Conway; Fraser; Hasegawa, Ranking Member and Rivers.

Passed to Committee on Rules for second reading.

January 31, 2013

SB 5110 Prime Sponsor, Senator Tom: Regarding local government purchasing. Reported by Committee on Governmental Operations

MAJORITY recommendation: That Substitute Senate Bill No. 5110 be substituted therefor, and the substitute bill do pass. Signed by Senators Roach, Chair; Benton, Vice Chair; Braun; Conway; Fraser; Hasegawa, Ranking Member and Rivers.

Passed to Committee on Rules for second reading.

January 29, 2013

SB 5121 Prime Sponsor, Senator Carrell: Concerning the effect of zoning ordinances on hobby vehicle restoration. Reported by Committee on Governmental Operations

MAJORITY recommendation: Do pass. Signed by Senators Roach, Chair; Benton, Vice Chair; Braun; Hasegawa, Ranking Member and Rivers.

Passed to Committee on Rules for second reading.

January 31, 2013

SB 5222 Prime Sponsor, Senator Kohl-Welles: Concerning industrial hemp. Reported by Committee on Agriculture, Water & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5222 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Delvin; Eide; Hobbs; Honeyford, Ranking Member; Schoesler and Shin.

Passed to Committee on Ways & Means.

January 31, 2013

SB 5257 Prime Sponsor, Senator Roach: Modifying time frames applicable to certain public disclosure commission requirements. Reported by Committee on Governmental Operations

MAJORITY recommendation: Do pass. Signed by Senators Roach, Chair; Benton, Vice Chair; Braun; Conway; Fraser and Rivers.

Passed to Committee on Rules for second reading.

January 31, 2013

SB 5258 Prime Sponsor, Senator Benton: Aggregating the cost of related ballot measure advertisements for purposes of top five sponsor identification requirements. Reported by Committee on Governmental Operations

MAJORITY recommendation: Do pass. Signed by Senators Roach, Chair; Benton, Vice Chair; Braun; Conway; Fraser; Hasegawa, Ranking Member and Rivers.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Fain, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE SECRETARY OF STATE

CERTIFICATION OF INITIATIVE TO THE LEGISLATURE
NO. 522

Pursuant to Article II, Section 1 of the Washington State Constitution, RCW 29A.72.230, and WAC 434.379.010, the Office of the Secretary of State has caused the signatures submitted in support of Initiative to the Legislature No. 522 to be examined in the following manner:

1. It was determined that 353,331 signatures were submitted by the sponsors of the initiative. A random sample of 10,762 signatures was taken from those submitted;
2. Each sampled signature was examined to determine if the signer was a registered voter of the state, if the signature was reasonably similar to the one appearing on the record of that voter, and if the same signature appeared more than once in the sample. We found 9,503 valid signatures, 1,241 signatures that were invalid and 18 pairs of duplicated signatures in the sample;
3. We calculated an allowance for the chance error of sampling (53) by multiplying the square root of the number of invalid signatures by 1.5;
4. We estimated the upper limit of the number of signatures on the initiative petition which were invalid (42,479) by dividing the sum of the number of invalid signatures in the sample and allowance for the chance of error of sampling by the sampling ratio;
5. We determined the maximum allowable number of pairs of signatures on the petition (69,699) by subtracting the sum of the number of signatures required by Article II, Section 1 of the Washington State Constitution (241,153) and the estimate of the upper limit of the number of invalid signatures on the petition from the number of signatures submitted;
6. We determined the expected number of pairs of signatures in the sample (65) by multiplying the square of the sampling ratio by the maximum allowable number of pairs of signatures on the initiative petition;
7. We determined the acceptable number of pairs of signatures in the sample (51) by subtracting 1.65 times the square root of the expected number of pairs of signatures in the sample from the expected number of pairs of signatures in the sample; and
8. The number of pairs of signatures in the sample is less than the acceptable number of pairs of signatures in the sample.

Therefore, I hereby declare Initiative to the Legislature No. 522 to contain sufficient signatures.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the State of Washington this 31st day of January, 2013.

KIM WYMAN, Secretary of State

Seal

MOTION

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

INTRODUCTION AND FIRST READING

SB 5506 by Senators Billig, Eide, Frockt, Cleveland, Schlicher, Rolfes, Hobbs, Nelson, Fain, Parlette, Keiser, Kohl-Welles, Hill, Shin, Murray, McAuliffe and Conway

AN ACT Relating to committing state and federal support to the safe routes to school program; amending RCW

47.04.300; reenacting and amending RCW 46.68.060; and creating a new section.

Referred to Committee on Transportation.

SB 5507 by Senators Billig, Benton, Rolfes, Rivers, Hatfield, Harper, Ranker, Hasegawa, Frockt, Schlicher, Smith, Fraser, Sheldon, Roach, Kohl-Welles, Keiser, Shin, Murray, McAuliffe, Kline and Conway

AN ACT Relating to increasing transparency of donors to candidates and ballot measures; amending RCW 29A.32.031, 29A.32.070, 29A.36.106, and 29A.36.161; and creating a new section.

Referred to Committee on Governmental Operations.

SB 5508 by Senators Hatfield and Shin

AN ACT Relating to prevailing wages on certain rural school district projects; and amending RCW 39.12.020.

Referred to Committee on Commerce & Labor.

SB 5509 by Senators Becker and Keiser

AN ACT Relating to electronic timekeeping for in-home personal care or respite services; and amending RCW 74.39A.325.

Referred to Committee on Health Care.

SB 5510 by Senators Becker, Keiser, Kohl-Welles, McAuliffe and Conway

AN ACT Relating to abuse of vulnerable adults; and amending RCW 74.34.020, 74.34.035, and 74.34.067.

Referred to Committee on Health Care.

SB 5511 by Senators Hasegawa, Chase, Shin and Kline

AN ACT Relating to creating the Washington state preservation of liberty act condemning the unlawful detention of United States citizens and lawful resident aliens under the national defense authorization act; adding a new section to chapter 42.20 RCW; adding a new section to chapter 38.40 RCW; creating new sections; prescribing penalties; and declaring an emergency.

Referred to Committee on Law & Justice.

SB 5512 by Senators Conway, Hobbs, Nelson, Delvin, Schlicher, McAuliffe, Hatfield and Shin

AN ACT Relating to calculating service credit for school administrators for alternate early retirement eligibility; and amending RCW 41.32.765, 41.32.875, 41.35.420, and 41.35.680.

Referred to Committee on Ways & Means.

SB 5513 by Senators Rolfes, Delvin, Becker, Ranker, King, Sheldon, Ericksen, Benton and Roach

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AN ACT Relating to regulating the use of off-road vehicles in certain areas; amending RCW 46.09.310, 46.09.360, 46.09.400, 46.09.410, 46.09.420, 46.09.450, 46.09.460, 46.09.530, 46.17.350, 46.30.020, 79A.80.010, and 46.63.030; reenacting and amending RCW 46.09.470, 46.63.020, 43.84.092, and 43.84.092; adding new sections to chapter 46.09 RCW; creating a new section; prescribing penalties; providing an effective date; providing a contingent effective date; and providing a contingent expiration date.

Referred to Committee on Transportation.

SB 5514 by Senators Roach and Benton

AN ACT Relating to utility rates and charges for vacant mobile home lots in manufactured housing communities; and amending RCW 35.23.535, 35.58.220, 35.67.020, 35.92.010, 35.92.020, 36.89.080, 36.94.140, 54.24.080, and 57.08.081.

Referred to Committee on Governmental Operations.

SB 5515 by Senators Eide and Benton

AN ACT Relating to fees for certain vehicle title, registration, and permitting services; amending RCW 46.17.040, 46.17.050, and 46.17.060; and adding new sections to chapter 46.68 RCW.

Referred to Committee on Transportation.

SB 5516 by Senators Keiser and Fain

AN ACT Relating to the criminal justice training commission firing range maintenance account; and adding a new section to chapter 43.101 RCW.

Referred to Committee on Law & Justice.

SB 5517 by Senators Hobbs, Hewitt, Hatfield, Honeyford and Shin

AN ACT Relating to the beer and wine tasting endorsement for grocery stores; and amending RCW 66.24.363.

Referred to Committee on Commerce & Labor.

SB 5518 by Senators Roach, Darneille, Sheldon and Hatfield

AN ACT Relating to making nonsubstantive changes to election laws; amending RCW 29A.04.008, 29A.04.013, 29A.04.079, 29A.04.086, 29A.04.097, 29A.04.169, 29A.04.216, 29A.04.321, 29A.04.330, 29A.04.410, 29A.04.420, 29A.08.020, 29A.08.220, 29A.08.230, 29A.08.260, 29A.08.330, 29A.08.340, 29A.08.350, 29A.08.820, 29A.12.005, 29A.12.080, 29A.12.120, 29A.12.150, 29A.20.021, 29A.20.111, 29A.20.121, 29A.20.161, 29A.20.191, 29A.24.020, 29A.24.031, 29A.24.101, 29A.24.320, 29A.28.041, 29A.28.050, 29A.28.061, 29A.32.100, 29A.32.210, 29A.36.010, 29A.36.060, 29A.36.101, 29A.36.121, 29A.36.131, 29A.36.161, 29A.36.201, 29A.40.010, 29A.52.112, 29A.52.210, 29A.52.321, 29A.52.355, 29A.56.040, 29A.56.210, 29A.56.320, 29A.56.360, 29A.56.490, 29A.60.010, 29A.60.060, 29A.60.110, 29A.60.160,

29A.60.165, 29A.60.240, 29A.60.250, 29A.64.021, 29A.64.030, 29A.64.050, 29A.64.061, 29A.64.090, 29A.68.011, 29A.68.020, 29A.72.080, 29A.72.130, 29A.72.250, 29A.72.290, 29A.76.020, 29A.76.030, 29A.80.020, 29A.84.210, 29A.84.261, 29A.84.510, 29A.84.520, 29A.84.711, 29A.88.020, 29A.88.040, 42.12.040, 42.12.070, 46.20.155, 29A.24.311, and 29A.36.040; reenacting and amending RCW 29A.36.170, 29A.40.070, 29A.40.091, and 35.17.020; reenacting RCW 29A.08.520; adding a new section to chapter 29A.08 RCW; adding new sections to chapter 29A.24 RCW; adding new sections to chapter 29A.60 RCW; adding new sections to chapter 29A.56 RCW; adding a new section to chapter 29A.80 RCW; adding a new section to chapter 29A.16 RCW; recodifying RCW 29A.04.240, 29A.20.010, 29A.20.021, 29A.20.030, 29A.20.040, 29A.20.111, 29A.20.121, 29A.20.131, 29A.20.151, 29A.20.161, 29A.20.171, 29A.20.181, 29A.20.191, 29A.28.071, and 29A.76.030; repealing RCW 7.16.370, 29A.04.225, 29A.08.250, 29A.08.785, 29A.12.170, 29A.20.141, 29A.20.201, 29A.24.030, 29A.24.120, 29A.28.011, 29A.28.021, 29A.32.036, 29A.32.050, 29A.36.050, 29A.36.104, 29A.36.106, 29A.36.171, 29A.36.191, 29A.52.011, 29A.52.106, 29A.52.111, 29A.52.116, 29A.52.130, 29A.52.141, 29A.52.151, 29A.53.010, 29A.53.020, 29A.53.030, 29A.53.040, 29A.53.050, 29A.53.060, 29A.53.070, 29A.53.080, 29A.53.090, 29A.53.900, 29A.53.901, 29A.53.902, 29A.80.011, 44.04.015, and 49.28.120; and repealing 2009 c 369 s 27.

Referred to Committee on Governmental Operations.

SB 5519 by Senators Bailey, Darneille, Dammeier, Keiser, Litzow, Kohl-Welles and Conway

AN ACT Relating to enacting planning measures to provide for the future long-term care services and supports needs of the aging population; amending RCW 74.41.050; creating new sections; and providing expiration dates.

Referred to Committee on Health Care.

SB 5520 by Senators Billig, Conway, Fain and Delvin

AN ACT Relating to establishing a regional fire protection service authority formation process for cities; amending RCW 52.26.010, 52.26.030, 52.26.040, and 52.26.060; and reenacting and amending RCW 52.26.020.

Referred to Committee on Governmental Operations.

SB 5521 by Senators King, Darneille, Kohl-Welles, Schlicher, Keiser, Frockt, Shin and Kline

AN ACT Relating to protecting children under the age of eighteen from the harmful effects of exposure to ultraviolet radiation associated with tanning devices; adding a new chapter to Title 18 RCW; and prescribing penalties.

Referred to Committee on Commerce & Labor.

SB 5522 by Senators Sheldon, Benton and Shin

AN ACT Relating to clarification of the duration of a rental agreement offered for renewal in manufactured housing communities; and amending RCW 59.20.090.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5523 by Senators Benton and Roach

AN ACT Relating to the property taxation of mobile homes and park model trailers; amending RCW 46.44.170; and adding a new section to chapter 84.56 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5524 by Senators Cleveland, Schlicher, Benton, Baumgartner, Keiser, Shin and Kline

AN ACT Relating to authorizing Washington pharmacies to fill prescriptions written by physician assistants in other states; and reenacting and amending RCW 69.50.101.

Referred to Committee on Health Care.

SB 5525 by Senator Keiser

AN ACT Relating to medical specialty technicians; adding a new chapter to Title 18 RCW; and providing an effective date.

Referred to Committee on Health Care.

SB 5526 by Senators Conway, Kohl-Welles, Keiser, Hasegawa, Ranker, Fraser, Nelson, Harper, Rolfes, Hatfield, Hobbs, Shin and Kline

AN ACT Relating to ensuring fairness to employers by protecting employees; amending RCW 39.12.010, 39.12.050, 49.52.070, 49.48.084, 50.12.070, 50.12.072, 50.24.070, 50.04.100, 50.04.298, 51.08.070, and 51.08.180; reenacting and amending RCW 49.48.082, 49.48.060, and 49.46.010; adding new sections to chapter 39.12 RCW; adding new sections to chapter 49.52 RCW; adding new sections to chapter 49.48 RCW; adding new sections to chapter 49.46 RCW; adding a new section to chapter 50.04 RCW; adding a new chapter to Title 49 RCW; adding a new chapter to Title 60 RCW; creating new sections; repealing RCW 39.12.100, 49.46.100, 50.04.140, 50.04.145, 51.08.181, and 51.08.195; and prescribing penalties.

Referred to Committee on Commerce & Labor.

SB 5527 by Senators Hobbs, Mullet and Baumgartner

AN ACT Relating to debt adjusting services; amending RCW 18.28.080, 18.28.090, 18.28.110, 18.28.150, 18.28.165, and 18.28.190; reenacting and amending RCW 18.28.010; adding new sections to chapter 18.28 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5528 by Senators Kohl-Welles, Delvin, Litzow, Kline, Darneille, Keiser and Murray

AN ACT Relating to the medical use of cannabis but only relating to making technical corrections necessary to address the partial veto of Engrossed Second Substitute Senate Bill No. 5073 by restoring definitions, removing references to the vetoed provisions, providing qualifying patients and their designated providers with arrest protection, and requesting the liquor control board to study the feasibility of issuing a qualifying patient identification card; amending RCW 69.51A.010, 69.51A.020, 69.51A.030, 69.51A.040, 69.51A.047, 69.51A.055, 69.51A.060, 69.51A.085, and 69.51A.140; creating a new section; repealing RCW 69.51A.043; and providing an expiration date.

Referred to Committee on Health Care.

SB 5529 by Senators Rivers, Harper, Benton, Cleveland, Hobbs, Padden, Holmquist Newbry, Kohl-Welles, Shin and McAuliffe

AN ACT Relating to creating a sales tax holiday for back-to-school clothing and supplies; amending RCW 82.12.040; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Trade & Economic Development.

SB 5530 by Senators Conway, Becker, Keiser, Parlette and Shin

AN ACT Relating to requiring physicians and physician assistants to provide requested demographic information at the time of license renewal; and amending RCW 18.71.080 and 18.71A.020.

Referred to Committee on Health Care.

SB 5531 by Senators Darneille, Litzow, Hargrove, Murray, Nelson, Carrell, Pearson, Fain, Mullet, Harper, Tom, Rivers, Hewitt, Hill and Keiser

AN ACT Relating to measuring performance of the child welfare system; adding new sections to chapter 74.13 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 5532 by Senators Rolfes, Hobbs, Billig, Darneille, Keiser, McAuliffe and Kline

AN ACT Relating to requiring crisis intervention training for peace officers; and adding a new section to chapter 43.101 RCW.

Referred to Committee on Law & Justice.

SB 5533 by Senators Rolfes, Chase and Braun

AN ACT Relating to fostering economic development through revitalization of abandoned and vacant properties; amending RCW 43.160.010, 43.160.020, 43.160.070, 43.160.076, and 43.160.080; and adding new sections to chapter 43.160 RCW.

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Referred to Committee on Trade & Economic Development.

Referred to Committee on Health Care.

SB 5534 by Senators Rolfes and Billig

MOTION

AN ACT Relating to assessing penalties on motor vehicle-related violations in order to support the Washington state strategic highway safety plan; adding a new section to chapter 46.64 RCW; adding a new section to chapter 43.59 RCW; creating a new section; and prescribing penalties.

On motion of Senator Fain, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

Referred to Committee on Transportation.

MOTION

On motion of Senator Fain, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

SB 5535 by Senators Rolfes, Honeyford and Nelson

AN ACT Relating to the recording of real property encumbrance transfers and assignments; and amending RCW 65.08.070.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

Referred to Committee on Governmental Operations.

MOTION

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

SB 5536 by Senators Conway, Litzow, Hewitt, Bailey and Holmquist Newbry

AN ACT Relating to the marine employees' commission; amending RCW 47.64.280 and 41.58.065; amending 2011 1st sp.s. c 16 s 28 (uncodified); and declaring an emergency.

MOTION

Senator Hargrove moved adoption of the following resolution:

Referred to Committee on Transportation.

SENATE RESOLUTION
8608

SB 5537 by Senators Keiser, Schlicher, Frockt, Shin, Mullet, Rolfes, Murray, Kline and Conway

AN ACT Relating to improving the quality and value of health care with greater transparency of price and quality data; and adding a new chapter to Title 48 RCW.

By Senators Hargrove and Hatfield

WHEREAS, The 2012 Montesano High School football team withstood adversity in many forms during an improbable eleven-week run leading to the team's third state championship; and

Referred to Committee on Health Care.

WHEREAS, The Montesano High School football team was beset by the challenges of inexperience and graduation in the opening weeks of the 2012 season, resulting in a 1-2 start and the end of a forty-game league winning streak; and

SB 5538 by Senators Keiser, Schlicher, Frockt, Mullet, Murray, McAuliffe, Kline and Conway

AN ACT Relating to transparency, accountability, and affordability in the provision of essential health care services; and adding a new section to chapter 48.43 RCW.

WHEREAS, A fire at the historic Jack Rottle Stadium grandstands on the night of September 16, 2012, forced the Montesano High School football team to play all but one of its remaining home games on the road; and

Referred to Committee on Health Care.

WHEREAS, The Montesano players and coaches responded like true champions, winning eleven consecutive games including a 43-28 win over the second-ranked Royal Knights to win the school's third 1A state championship; and

SB 5539 by Senators Becker, Schlicher, Bailey, Keiser, Frockt, Ericksen and Shin

AN ACT Relating to providing prescription drugs by direct practice providers; amending RCW 48.150.040; and reenacting and amending RCW 48.150.010.

WHEREAS, The Montesano High School football team's season is a testament to the fruits of hard work, determination, and sacrifice; and

Referred to Committee on Health Care.

WHEREAS, The Montesano High School football team members' efforts on the field were mirrored by their success in the classroom, where team members achieved a cumulative 3.5 grade point average and 2012 1A Football State Academic Championship;

SB 5540 by Senators Parlette, Schlicher, Becker, Bailey, Dammeier, Keiser and Rolfes

AN ACT Relating to expanding opportunities to purchase health care coverage from out-of-state carriers; amending RCW 48.05.070 and 48.21.047; adding new sections to chapter 48.21 RCW; and adding a new section to chapter 43.71 RCW.

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the tremendous achievement of the Montesano High School football team on its success on the field and in the classroom; and

BE IT FURTHER RESOLVED, That Coach Terry Jensen and his staff be commended for their guidance and leadership in helping to shape this group of young men into champions; and

BE IT FURTHER RESOLVED, That the City of Montesano be commended for its support and dedication to its sons during their pursuit of a state championship; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Montesano High School, the Aberdeen Daily World, and Montesano Vidette newspapers.

Senators Hargrove and Hatfield spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8608.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed members and coaches of the Montesano High School Bulldog Football Team who were seated in the gallery.

LETTER OF RESIGNATION

January 25, 2013

Governor Jay Inslee
PO Box 40002
Olympia, WA 98504

Re: Resignation from the Washington State Senate as of
February 3, 2013

Dear Governor Inslee:

It has been my honor to serve the 8th Legislative District since my election to the House of Representatives in November of 1994 and my later appointment to the State Senate in May of 2004. It is with a humble heart and great anticipation that I am giving notification of my resignation as a member of the Washington State Legislature. I pray that I was able to serve my district and this great state by giving back as much as I have received.

I decided that I could better fight for the priorities of the Tri-Cities on a local level and was elected Benton County Commission in November of 2012. I was sworn in on December 27, 2012. Therefore, pursuant to RCW 42.12.020, please accept my resignation from the Washington State Senate effective Sunday, February 3, 2013.

I wish you God's speed and much success in your new role as Governor.

Cordially yours,
JEROME DELVIN, State Senator
8th Legislative District

Cc:
Secretary of the Senate, Hunter Goodman
Senator Rodney Tom, Coalition Majority Leader
Senator Mark Schoesler, Republican Leader
Senator Ed Murray, Democratic Leader

BOARD OF COUNTY COMMISSIONERS BENTON COUNTY WASHINGTON

Resolution No. 2013 060

BEFORE THE BOARD OF COMMISSIONERS OF
BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPOINTMENT OF SHARON
BROWN AS STATE SENATOR FOR DISTRICT 8.

WHEREAS, Senator Jerome Delvin resigned his position as State Senator for District 8; and

WHEREAS, the Board of Benton County Commissioners are required by law to make an appointment to fill the vacated position; and

WHEREAS, the Board has reviewed all candidates and feels Sharon Brown would be the best candidate to fill the vacated position; NOW, THEREFORE,

BE IT RESOLVED by the Board of Benton County Commissioners that Sharon Brown is hereby appointed in accordance with the Washington State Constitution, Article 2, Section 15, to serve until the next general election as State Senator for District 8.

Dated this 28th Day of January 2013

Shon Small, Chairman of the Board
Jerome Delvin, Chairman Pro Tem
James Beaver, Member

MOTION

Senator Hewitt moved adoption of the following resolution:

SENATE RESOLUTION 8612

By Senators Hewitt, Tom, Schoesler, Parlette, Rivers, Fain, King, Becker, Holmquist Newbry, McAuliffe, Dammeier, Bailey, Kohl-Welles, Hill, Frockt, Fraser, Rolfes, Benton, Chase, Braun, and Kline

WHEREAS, Jerome Delvin has served the 8th legislative district with distinction for eighteen years, first in the House of Representatives for ten years, and then in the Senate for eight; and

WHEREAS, Senator Delvin protected his community by serving as a Richland police officer for twenty-eight years; and

WHEREAS, Senator Delvin's passionate views on serving his community are evident in his leadership as the President of the International Law Enforcement Foundation, a member of the Board of Directors of the Boys and Girls Club, and as a member of the National D.A.R.E. Officers Association; and

WHEREAS, Senator Delvin has been a true champion in protecting Washington's children against exploitation and predators by increasing criminal penalties, clarifying the legal definition of sexually inappropriate behavior, supporting a package of nine bills related to human trafficking, and personally sponsoring two bills during the 2012 legislative session; and

WHEREAS, Senator Delvin is a man of true convictions who has tirelessly fought for a common sense approach to the environment, been an advocate for clean and safe nuclear energy, and refused to ever drink the Kool-Aid; and

WHEREAS, Senator Delvin's actions in the Senate have benefited the developmentally disabled community with funding and by making various programs readily available for those in need; and

WHEREAS, Senator Delvin, while in the House of Representatives, sponsored two bills ensuring the teaching of the United States and Washington Constitutions, thus educating Washington's children about the foundations of our state and country; and

WHEREAS, Senator Delvin forged many working relationships across the aisle, most notably as part of a dynamic duo with Senator Kohl-Welles, on many issues ranging from human trafficking to medical marijuana; and

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WHEREAS, Senator Delvin earned many prestigious awards throughout his life, including the Distinguished Community Service Award for ARC of the Tri-Cities, the Order of Merit from the Peruvian National Police, and most significantly, for saving a woman's life, for which he was awarded the Richland Police Department's Outstanding Commendation; and

WHEREAS, Senator Delvin has traveled internationally, climbed Manaslu in the Nepalese Himalayas, the world's eighth highest peak, and promoted Washington's agriculture and jobs all around the world; and

WHEREAS, Senator Delvin made history when he became the first unofficial chair of the Cigar Caucus; and

WHEREAS, Senator Delvin will be fondly remembered for his quick humor, friendly disposition, and ability to bring levity to even the most tense situations; and

WHEREAS, Senator Delvin's wife of fifteen years, Josie, will be looking forward to spending time with her husband and watching TV in their side-by-side Barcaloungers; and

WHEREAS, Senator Delvin will be leaving the Senate to better serve Benton County as a commissioner and will be deeply missed in the Senate;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor and recognize Senator Delvin's devout dedication to the citizens of Washington State and the Tri-Cities; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Washington State Senator Jerome Delvin.

Senators Hewitt, Shin, Roach, Holmquist Newbry, Hargrove, Conway, Becker, Murray, Benton and Kohl-Welles spoke in favor of adoption of the resolution.

PERSONAL PRIVILEGE

Senator Parlette: "Senator Delvin, I will miss your sense of humor. We had the respectful workplace training, I let it be very clear with all of my members, let it be known, that all members had to attend. Who didn't show up? Senator Delvin. I gave direction to somebody, 'Please call his office and make sure he gets here.' He showed up and then the next day in caucus he stood up and he said, 'I must be honest, I was going to wear a tee shirt but I decided after the respectful workplace training, what it said on the back would not be appropriate so I changed my mind.' So I appreciate your attendance for that. Most of all I appreciate Jerome's direct, sincere, consistent honesty. It takes courage to say things sometimes that nobody else has the courage to say and Jerome is honest and he has the courage. I will really miss you. Thank you."

Senators Eide, Schoesler and Kline spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8612.

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

PERSONAL PRIVILEGE

Senator Delvin: "Thank you Mr. President. First as, Janea said, I couldn't of done this all this time without my wife, Josie. Who I love dearly, who has been there for me for a lot of tough times. It is bitter sweet that I'm leaving but I think I'm going out on my own terms. You know when I decided that it was time. The opportunity came and I chose to run for the commissioner. Someone else I have to who's been with me, I told her we don't

hug, that's my assistant Jeri May whose been with me sixteen years now and, you all know, once you have an LA that's good and you know I get more compliments on her than I do back in the district. You know you have a good LA, you got to support that LA and she's been a dear and she's been there for a lot of tough times and I really appreciate that Jeri, really appreciate that. All of you, you know, gotten to have some really good friends when we've traveled but working, working on issues. I always told myself you know this place is bigger than you are as an individual but, you know, you can be successful, you can get things done by relationships. I always tell new members, you know, you got to build those relationships because that's important. You got to be able to have a cigar or an espresso or a drink after hours and sit down and bond and appreciate the perspectives that everyone else has, that they bring to this institution. Yeah, I guess from being a police officer for so many years, you know, levity sometimes is a good way to break up a tense moments because as a police officer you learn that. You learn sometimes, especially if it's a domestic violence, sometimes you know a little joke now and then can break the tension and also it can piss off the people to though. But, so, I guess that's me. I'm just going to miss everyone here, you know, the experiences I've had. I mean how many people get to fly off an aircraft carrier? You know you can do that as a legislator, you know, if you're at the time with Ralph Munro or something. All the opportunities I've had. You know, I was offered yeah, you need to bring, you know, Tom Fitzsimmons shouldn't come back. You know, I said, 'Show me the money. Show me the money.' You know, no one ever came up with any money and that was spending a tent with him, sometimes, four days in a row, you know, in a snow storm. He did pull me out of a crevasse. I've never forgiven him for that so, I really appreciate that. Just all the good times, Mr. President, with you on some trips and but it's just been a, I can't complain one bit. You know the staff that I've been fortunate to work with too, that staff all of our committees. They are professional. They're excellent. The caucus and the nonpartisan staff. I mean just truly some great people here that I'll certainly miss. But, you know, I will be coming back here as a County Commissioner with my hand out for, you know, more authority and money. You know, I'll be telling you, 'What were you thinking when you passed this one? You know. So, I'll be gracing your doorsteps now and then. Also let me, with the press, I'll end with the press. You know, some of you guys I've known for a long time, you know, and I really respect you, like Eric and Peter Callaghan and John Stang. He's been around for a long time you know, I really appreciate you guys have a job to do. Always, sometimes referred to as the evil necessary for this place but you need to. The latest one. I want you to know, I have two cell phones now. I have two cell phones and I am proud to have two cell phones. But, you know, you have to do what you need to do to bring the press but I thought of some other things but I won't say those about the press. I'll be nice to you all. Well, wait a minute, it's my turn to take a dig at you all. You know, now I have to comply with this open meeting act thing you know, I can't talk to another commissioner because that's considered as a meeting. You know I get that and that's fine but some of this stuff recently just I don't know if that one AP reporter is here but I had one phone call and one email about the article about cell phones but once I explained it they were all good with it. So, you know, some of you guys were awful upset about that. You know, get used to that. It happens every year. They go searching for you know. I've has it for travel before but I think once you explain it to your constituents they get that. So, thank you for highlighting those nice things about us here, appreciate that. But, for all of you, good-bye. I'll be back. You know, it's really been an honor and privilege to serve with all of you and get to know all of you even

though maybe we didn't agree sometimes but I'm really going to miss this place and all of you and your all in my prayers. Thank you very much Mr. President."

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mrs. Josie Delvin, Benton County Clerk, spouse of Senator Delvin, who was seated at the rostrum.

MOTION

At 10:47 a.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:13 a.m. by President Owen.

MOTION

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

SECOND READING

SENATE BILL NO. 5128, by Senators Holmquist Newbry, Braun, King, Baumgartner, Sheldon, Rivers, Ericksen, Benton, Litzow, Becker, Dammeier, Smith, Hill, Bailey, Honeyford, Tom, Schoesler, Parlette, Padden and Hewitt

Addressing compensation for injured workers.

MOTION

On motion of Senator Holmquist Newbry, Substitute Senate Bill No. 5128 was substituted for Senate Bill No. 5128 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Roach moved that the following amendment by Senator Roach and others be adopted:
On page 1, line 14, strike all of subsection (i) and insert the following:

"(i) resolve a claim for all benefits other than medical;"

On page 4, starting on line 4, strike all material after "(7)" through "(8)" on line 11.

Senators Roach and Frockt 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 Roach and others on page 1, line 14 to Substitute Senate Bill No. 5128.

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

MOTION

Senator Holmquist Newbry moved that the rules be suspended, Engrossed Substitute Senate Bill No. 5128 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

Senator Frockt objected to the motion to suspend the rules to expedite the readings of Engrossed Substitute Senate Bill No. 5128.

Senator Frockt objected to the motion by Senator Holmquist Newbry to suspend the rules to expedite the readings of Substitute Senate Bill No. 5128.

MOTION

Senator Fain moved that further consideration of Engrossed Substitute Senate Bill No. 5128 be deferred and that the measure hold its place on the day's calendar.

SECOND READING

SENATE BILL NO. 5127, by Senators Holmquist Newbry, Tom, King, Sheldon, Baumgartner, Ericksen, Rivers, Litzow, Benton, Dammeier, Carrell, Braun, Bailey, Honeyford, Becker, Hill, Roach, Schoesler, Parlette, Padden and Hewitt

Amending provisions governing structured settlements by removing age barriers and clarifying legislative intent.

MOTION

On motion of Senator Holmquist Newbry, Substitute Senate Bill No. 5127 was substituted for Senate Bill No. 5127 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, line 5, strike all of section 1 and insert the following:
"Sec. 1. RCW 51.04.063 and 2011 1st sp.s. c 37 s 302 are each amended to read as follows:

(1) Notwithstanding RCW 51.04.060 or any other provision of this title, beginning on January 1, 2012, an injured worker who is at least fifty-five years of age on or after January 1, 2012, fifty-three years of age on or after January 1, 2015, (~~or~~) fifty years of age on or after January 1, 2016, forty-five years of age on or after January 1, 2018, or forty years of age on or after January 1, 2020, may choose from the following: (a) To continue to receive all benefits for which they are eligible under this title, (b) to participate in vocational training if eligible, or (c) to initiate and agree to a resolution of their claim with a structured settlement.

(2)(a) As provided in this section, the parties to an allowed claim may initiate and agree to resolve a claim with a structured settlement for all benefits other than medical. Parties as defined in (b) of this subsection may only initiate claim resolution structured settlements if at least one hundred eighty days have passed since the claim was received by the department or self-insurer and the order allowing the claim is final and binding. All requirements of this title regarding entitlement to and payment of benefits will apply during this period. All claim resolution structured settlement agreements must be approved by the board of industrial insurance appeals.

(b) For purposes of this section, "parties" means:

(i) For a state fund claim, the worker, the employer, and the department. The employer will not be a party if the costs of the claim or claims are no longer included in the calculation of the employer's experience factor used to determine premiums, if they cannot be located, are no longer in business, or they fail to respond or decline to participate after timely notice of the claim resolution settlement process provided by the board and the department.

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- (ii) For a self-insured claim, the worker and the employer.
- (c) The claim resolution structured settlement agreements shall:
 - (i) Bind the parties with regard to all aspects of a claim except medical benefits unless revoked by one of the parties as provided in subsection (6) of this section;
 - (ii) Provide a periodic payment schedule to the worker equal to at least twenty-five percent but not more than one hundred fifty percent of the average monthly wage in the state pursuant to RCW 51.08.018, except for the initial payment which may be up to six times the average monthly wage in the state pursuant to RCW 51.08.018;
 - (iii) Not set aside or reverse an allowance order;
 - (iv) Not subject any employer who is not a signatory to the agreement to any responsibility or burden under any claim; and
 - (v) Not subject any funds covered under this title to any responsibility or burden without prior approval from the director or designee.
- (d) For state fund claims, the department shall negotiate the claim resolution structured settlement agreement with the worker or their representative and with the employer or employers and their representative or representatives.
- (e) For self-insured claims, the self-insured employer shall negotiate the agreement with the worker or their representative. Workers of self-insured employers who are unrepresented may request that the office of the ombudsman for self-insured injured workers provide assistance or be present during negotiations.
- (f) Terms of the agreement may include the parties' agreement that the claim shall remain open for future necessary medical or surgical treatment related to the injury where there is a reasonable expectation such treatment is necessary. The parties may also agree that specific future treatment shall be provided without the application required in RCW 51.32.160.
- (g) Any claim resolution structured settlement agreement entered into under this section must be in writing and signed by the parties or their representatives and must clearly state that the parties understand and agree to the terms of the agreement.
- (h) If a worker is not represented by an attorney at the time of signing a claim resolution structured settlement agreement, the parties must forward a copy of the signed agreement to the board with a request for a conference with an industrial appeals judge. The industrial appeals judge must schedule a conference with all parties within fourteen days for the purpose of (i) reviewing the terms of the proposed settlement agreement by the parties; and (ii) ensuring the worker has an understanding of the benefits generally available under this title and that a claim resolution structured settlement agreement may alter the benefits payable on the claim or claims. The judge may schedule the initial conference for a later date with the consent of the parties.
 - (i) Before approving the agreement, the industrial appeals judge shall ensure the worker has an adequate understanding of the agreement and its consequences to the worker.
 - (j) The industrial appeals judge may approve a claim resolution structured settlement agreement only if the judge finds that the agreement is in the best interest of the worker. When determining whether the agreement is in the best interest of the worker, the industrial appeals judge shall consider the following factors, taken as a whole, with no individual factor being determinative:
 - (i) The nature and extent of the injuries and disabilities of the worker;
 - (ii) The age and life expectancy of the injured worker;
 - (iii) Other benefits the injured worker is receiving or is entitled to receive and the effect a claim resolution structured settlement agreement might have on those benefits; and
 - (iv) The marital or domestic partnership status of the injured worker.

(k) Within seven days after the conference, the industrial appeals judge shall issue an order allowing or rejecting the claim resolution structured settlement agreement. There is no appeal from the industrial appeals judge's decision.

(l) If the industrial appeals judge issues an order allowing the claim resolution structured settlement agreement, the order must be submitted to the board.

(3) Upon receiving the agreement, the board shall approve it within thirty working days of receipt unless it finds that:

(a) The parties have not entered into the agreement knowingly and willingly;

(b) The agreement does not meet the requirements of a claim resolution structured settlement agreement;

(c) The agreement is the result of a material misrepresentation of law or fact;

(d) The agreement is the result of harassment or coercion; or

(e) The agreement is unreasonable as a matter of law.

(4) If a worker is represented by an attorney at the time of signing a claim resolution structured settlement agreement, the parties shall submit the agreement directly to the board without the conference described in this section. The requirements of a claim resolution structured settlement agreement for the purposes of subsection (3) of this section do not include the determination under subsection (2)(i) of this section if a worker is represented by an attorney at the time of signing a claim resolution structured settlement agreement.

(5) If the board approves the agreement, it shall provide notice to all parties. The department shall place the agreement in the applicable claim file or files.

(6) A party may revoke consent to the claim resolution structured settlement agreement by providing written notice to the other parties and the board within thirty days after the date the agreement is approved by the board.

(7) To the extent the worker is entitled to any benefits while a claim resolution structured settlement agreement is being negotiated or during the revocation period of an agreement, the benefits must be paid pursuant to the requirements of this title until the agreement becomes final.

(8) A claim resolution structured settlement agreement that meets the conditions in this section and that has become final and binding as provided in this section is binding on all parties to the agreement as to its terms and the injuries and occupational diseases to which the agreement applies. A claim resolution structured settlement agreement that has become final and binding is not subject to appeal.

(9) All payments made to a worker pursuant to a final claim resolution structured settlement agreement must be reported to the department as claims costs pursuant to this title. If a self-insured employer contracts with a third-party administrator for claim services and the payment of benefits under this title, the third-party administrator shall also disburse the structured settlement payments pursuant to the agreement.

(10) Claims closed pursuant to a claim resolution structured settlement agreement can be reopened pursuant to RCW 51.32.160 for medical treatment only. Further temporary total, temporary partial, permanent partial, or permanent total benefits are not payable under the same claim or claims for which a claim resolution structured settlement agreement has been approved by the board and has become final.

(11) Parties aggrieved by the failure of any other party to comply with the terms of a claim resolution structured settlement agreement have one year from the date of failure to comply to petition to the board. If the board determines that a party has failed to comply with an agreement, they will order compliance and will impose a penalty payable to the aggrieved party of up to twenty-five

percent of the monetary amount unpaid at the time the petition for noncompliance was filed. The board will also decide on any disputes as to attorneys' fees for services related to claim resolution structured settlement agreements.

(12) Parties and their representatives may not use settlement offers or the claim resolution structured settlement agreement process to harass or coerce any party. If the department determines that an employer has engaged in a pattern of harassment or coercion, the employer may be subject to penalty or corrective action, and may be removed from the retrospective rating program or be decertified from self-insurance under RCW 51.14.030."

Senators Hobbs, Nelson and Rolfes spoke in favor of adoption of the amendment.

Senators Sheldon, Holmquist Newbry, Becker, Baumgartner and Honeyford spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hobbs and others on page 1, line 5 to Substitute Senate Bill No. 5127.

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

MOTION

Senator Holmquist Newbry moved that the rules be suspended, Substitute Senate Bill No. 5127 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

Senator Frockt objected to the motion by Senator Holmquist Newbry to suspend the rules to expedite the readings of Substitute Senate Bill No. 5127.

MOTION

On motion of Senator Fain, further consideration of Substitute Senate Bill No. 5127 was deferred and the bill held its place on the days calendar.

SECOND READING

SENATE BILL NO. 5112, by Senators Holmquist Newbry, Sheldon, Braun and Hewitt

Granting scheduling authority for qualified retrospective rating plan employers and groups.

The measure was read the second time.

MOTION

Senator Hewitt moved that the rules be suspended, Substitute Senate Bill No. 5112 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

Senator Frockt objected to the motion by Senator Holmquist Newbry to suspend the rules to expedite the readings of Senate Bill No. 5112.

MOTION

Senator Fain moved that further consideration of Substitute Senate Bill No. 5112 be deferred and that the measure hold its place on the day's calendar.

PARLIAMENTARY INQUIRY

Senator Benton: "Point of clarification, Mr. President: We are not moving to third reading and voting on the bill for what reason?"

REPLY BY THE PRESIDENT

President Owen: "It is not the President's place to tell you what reason."

PARLIAMENTARY INQUIRY

Senator Benton: "I don't know. Was there an objection to going to the third reading?"

REPLY BY THE PRESIDENT

President Owen: "There was an objection."

There being no objection, the President declared further consideration of Senate Bill No. 5112 deferred and the measure held its place on the day's calendar.

INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Mr. David Longnecker, Ph.D., President of the Western Interstate Commission for Higher Education in Boulder, Colorado, guest of Senator Kohl-Welles, who was present in the gallery and recognized by the Senate.

PERSONAL PRIVILEGE

Senator Kohl-Welles: "I'd like to remind the members of the Senate that we do have a meeting at noon with David Longnecker to discuss higher education issues and funding. Lunch is provided and I hope that many of you can come to that following greeting some of our former members or retiring members in the Republican Caucus Room. Thank you."

MOTION

At 11:33 p.m., on motion of Senator Fain, the Senate adjourned until 12:00 noon, Monday, February 4, 2013.

BRAD OWEN, President of the Senate

HUNTER GOODMAN, Secretary of the Senate

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