

SIXTY-FIFTH DAY
MORNING SESSION

Senate Chamber, Olympia, Tuesday, March 15, 2005

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present except Senators Brown, Deccio, Doumit, Pflug, Sheldon and Stevens.

The Sergeant at Arms Color Guard consisting of Pages Marion Conley and Madeleine Roach, presented the Colors. Pastor Tandi Rogers, Program Consultant for the Unitarian Universalist Association, Pacific Northwest District offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

March 14, 2005

MR. PRESIDENT:

The House has passed the following bill(s):

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1029,
SUBSTITUTE HOUSE BILL NO. 1065,
ENGROSSED HOUSE BILL NO. 1068,
SUBSTITUTE HOUSE BILL NO. 1643,
SUBSTITUTE HOUSE BILL NO. 1834,
ENGROSSED HOUSE BILL NO. 1848,
SUBSTITUTE HOUSE BILL NO. 1918,
SUBSTITUTE HOUSE BILL NO. 2033,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2056,
SECOND SUBSTITUTE HOUSE BILL NO. 2212,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed the following bill(s):

ENGROSSED HOUSE BILL NO. 1074,
ENGROSSED SUBSTITUTE SENATE BILL NO. 1080,
SUBSTITUTE HOUSE BILL NO. 1116,
SUBSTITUTE HOUSE BILL NO. 1236,
HOUSE BILL NO. 1429,
SUBSTITUTE HOUSE BILL NO. 1806,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2259,
SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4003,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed the following bill(s):

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1153,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1301,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1418,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1865,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2053,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2194,
and he same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The HOUSE has passed the following bill(s):
SUBSTITUTE HOUSE BILL NO. 1408,
SUBSTITUTE HOUSE BILL NO. 1636,
SUBSTITUTE HOUSE BILL NO. 1802,
SECOND SUBSTITUTE HOUSE BILL NO. 1815,
HOUSE BILL NO. 1864,
SUBSTITUTE HOUSE BILL NO. 1936,
ENGROSSED HOUSE BILL NO. 1998,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126,
SUBSTITUTE HOUSE BILL NO. 2173,
ENGROSSED HOUSE BILL NO. 2241,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6086 by Senators Honeyford, Hewitt, Poulsen, Morton, Mulliken and Rasmussen

AN ACT Relating to allowing retrofitting of domestic wells to maintain agricultural irrigation purposes during drought; amending RCW 43.83B.410; and declaring an emergency.

Referred to Committee on Water, Energy & Environment.

SB 6087 by Senators Brown, Kline, Keiser, Fairley, Weinstein, Rockefeller and Kohl-Welles

AN ACT Relating to improving health care by increasing patient safety, reducing medical errors, reforming medical malpractice insurance, and resolving medical malpractice claims fairly without imposing mandatory limits on damage awards or fees; amending RCW 5.64.010, 4.24.260, 18.71.015, 18.130.160, 18.130.172, 43.70.510, 48.18.290, 48.18.2901, 48.18.100, 48.18.103, 48.19.043, 48.19.060, 4.16.190, 7.04.010, and 7.70.080; reenacting and amending RCW 69.41.010; reenacting RCW 4.16.350; adding a new section to chapter 18.130 RCW; adding new sections to chapter 7.70 RCW; adding a new section to chapter 42.17 RCW; adding a new section to chapter 48.19 RCW; adding a new section to chapter 48.18 RCW; adding a new chapter to Title 70 RCW; adding a new chapter to Title 48 RCW; adding a new chapter to Title 7 RCW; creating new sections; prescribing penalties; and providing for submission of this act to a vote of the people.

Referred to Committee on Judiciary.

FIRST READING OF HOUSE BILLS

ESHB 1153 by House Committee on Local Government
(originally sponsored by Representatives Springer, Nixon, Clibborn, Jarrett, Simpson, P. Sullivan, Shabro and B. Sullivan)

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AN ACT Relating to equalizing the costs of providing municipal services to newly annexed areas; adding a new section to chapter 35.21 RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

ESHB 1301 by House Committee on Capital Budget (originally sponsored by Representatives Hunt, Alexander, Ormsby, Jarrett, Dunshee, Williams and Moeller)

AN ACT Relating to state capitol campus governance; amending RCW 43.34.080 and 43.19.125; adding new sections to chapter 43.34 RCW; adding a new section to chapter 27.48 RCW; adding a new section to chapter 79.24 RCW; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

SHB 1408 by House Committee on Appropriations (originally sponsored by Representatives Pettigrew, Hinkle, Morrell, Jarrett, Darneille, McDonald, B. Sullivan, Kagi, Skinner, Schual-Berke, Chase, McIntire, McCoy, Hasegawa, Upthegrove, Ormsby, Woods, Miloscia, P. Sullivan, Santos and Simpson)

AN ACT Relating to individual development accounts; reenacting and amending RCW 43.79A.040; adding new sections to chapter 43.31 RCW; and creating new sections.

Referred to Committee on International Trade & Economic Development.

E2SHB 1418 by House Committee on Appropriations (originally sponsored by Representatives Kirby, Roach, Simpson, Santos, Campbell, Orcutt, Williams and Serben)

AN ACT Relating to regulating insurance overpayment recovery practices; adding a new section to chapter 48.43 RCW; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

SHB 1636 by House Committee on Appropriations (originally sponsored by Representatives Pettigrew, Roberts, Kagi, Clements, Darneille, Hunt, Green, Kenney, Appleton, Chase, Jarrett, Kessler, Moeller, Morrell, Williams, Ormsby, Murray, Dickerson, Conway, Lantz, Wood, Haigh, McDermott, Santos and Hudgins)

AN ACT Relating to child care workers; and adding new sections to chapter 74.13 RCW.

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

SHB 1802 by House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Kilmer, Walsh, Pettigrew, Strow, Wallace, Kenney, Clibborn, Hankins, McCoy, Haler, Blake, McCune, Linville, P. Sullivan, Grant, Kessler, Simpson, Morrell, Williams, O'Brien, Lantz, Eickmeyer, Chase, Haigh, Hasegawa, Hudgins and Moeller)

AN ACT Relating to property tax exemptions for nonprofit organizations for small business incubators which assist in the creation and expansion of innovative small commercial enterprises; amending RCW 84.36.810; adding new sections to chapter 84.36 RCW; and creating new sections.

Referred to Committee on International Trade & Economic Development.

2SHB 1815 by House Committee on Appropriations (originally sponsored by Representatives Wallace, Skinner, Pettigrew, Rodne, Kilmer, Ahern, Blake, McCoy, Anderson, Walsh, Lovick, Hudgins, Appleton, Strow, Murray, B. Sullivan, Simpson, Kessler, Williams, O'Brien, Conway, Morris, Linville, Lantz and Moeller)

AN ACT Relating to a small business incubator competitive grant program; amending RCW 43.176.020; adding a new section to chapter 43.176 RCW; and creating a new section.

Referred to Committee on International Trade & Economic Development.

HB 1864 by Representatives Kilmer, Woods, Lantz, Appleton, Green and Hasegawa

AN ACT Relating to citizen advisory committees for toll charge oversight; amending RCW 47.46.090; and adding a new section to chapter 47.46 RCW.

Referred to Committee on Transportation.

ESHB 1865 by House Committee on Transportation (originally sponsored by Representatives Kilmer, Woods, Lantz, Appleton, Talcott, Green and Williams)

AN ACT Relating to sales and use taxes related to the state route 16 corridor improvements project; amending RCW 47.46.060; adding a new section to chapter 82.08 RCW; and adding a new section to chapter 82.12 RCW.

Referred to Committee on Ways & Means.

ESHB 1883 by House Committee on Select Committee on Hood Canal (originally sponsored by Representatives McCoy, Pearson, Eickmeyer, Upthegrove and Haigh)

AN ACT Relating to collection and preservation of oral histories about Hood Canal; adding a new section to chapter 28B.40 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Government Operations & Elections.

SHB 1936 by House Committee on Appropriations (originally sponsored by Representatives Upthegrove, Hinkle, Simpson, Priest, Miloscia, Schual-Berke, P. Sullivan, Williams, Hasegawa and O'Brien)

AN ACT Relating to allowing members of the public employees' retirement system plans 1 and 2 employed as emergency medical technicians to transfer to the law enforcement officers' and fire fighters' retirement system plan 2; amending RCW 41.26.030 and 41.26.547; and providing an expiration date.

Referred to Committee on Ways & Means.

EHB 1998 by Representatives P. Sullivan and Santos

AN ACT Relating to awards for the improvement of student achievement; and adding a new section to chapter 28A.655 RCW.

Referred to Committee on Early Learning, K-12 & Higher Education.

ESHB 2053 by House Committee on Transportation (originally sponsored by Representatives Hankins, Murray, Haler, Schual-Berke and Skinner)

AN ACT Relating to intermediate drivers' licenses; amending RCW 46.20.075; and providing an effective date.

Referred to Committee on Transportation.

ESHB 2126 by House Committee on Judiciary (originally sponsored by Representatives Lantz, Kenney, Kessler, Rodne, Linville, Hankins, Grant, Takko, Newhouse, Williams, Flannigan, Sells, Ormsby, Chase and Serben)

AN ACT Relating to providing accommodations to dependent persons who are victims and witnesses; and adding a new chapter to Title 7 RCW.

Referred to Committee on Judiciary.

SHB 2173 by House Committee on Judiciary (originally sponsored by Representatives Serben, Lantz, Curtis, Dameille, Williams, Rodne, Ahern, Sump, Sells, Woods, Dunn, Springer, Haler, Talcott, Wallace, Conway, O'Brien, Kenney and P. Sullivan)

AN ACT Relating to service members' civil relief; adding a new chapter to Title 38 RCW; prescribing penalties; and declaring an emergency.

Referred to Committee on Judiciary.

ESHB 2194 by House Committee on Local Government (originally sponsored by Representatives Springer and Simpson)

AN ACT Relating to public participation requirements of the growth management act; amending RCW 36.70A.035 and 36.70A.140; adding a new section to chapter 36.70A RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

EHB 2241 by Representatives Dunshee, Lovick and O'Brien

AN ACT Relating to limited recreational activities, playing fields, and supporting facilities existing before July 1, 2004, on designated recreational lands in jurisdictions planning under RCW 36.70A.040; amending RCW 36.70A.030, 36.70A.060, and 36.70A.130; adding new sections to chapter 36.70A RCW; creating a new section; providing an expiration date; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

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 Engrossed Substitute House Bill No. 1865 which was referred to the Committee on Ways & Means.

MOTION

On motion of Senator Eide, the Senate reverted to the third

order of business.

SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Kohl-Welles, Gubernatorial Appointment No. 9165, Kevin M. Raymond, as a member of the Board of Trustees, Western Washington University, be confirmed.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

On motion of Senator Hewitt, Senators Deccio and Stevens were excused.

On motion of Senator Regala, Senators Brown, Doumit and Sheldon were excused.

APPOINTMENT OF KEVIN M. RAYMOND

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yeas: Senators Benson, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senator Pflug - 1

Excused: Senators Brown, Deccio, Doumit, Sheldon and Stevens - 5

SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Kohl-Welles, Gubernatorial Appointment No. 9186, Martin F. Smith, as a member of the K-20 Educational Network Board, be confirmed.

Senators Kohl-Welles and Finkbeiner spoke in favor of passage of the motion.

APPOINTMENT OF MARTIN F. SMITH

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yeas: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Absent: Senator Pflug - 1

Excused: Senators Deccio, Doumit, Sheldon and Stevens - 4

MOTION

On motion of Senator Mulliken, Senators Parlette and Pflug were excused.

SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

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On motion of Senator Franklin, Gubernatorial Appointment No. 9101, Joe Kosai, as a member of the Board of Trustees, Clover Park Technical College District No. 29, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF JOE KOSAI

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Deccio, Doumit, Sheldon and Stevens - 4

MOTION

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

SECOND READING

SENATE BILL NO. 5611, by Senators Esser, Kline, Regala, Hewitt, Fairley, McCaslin, Zarelli, Weinstein, Stevens, Johnson, Brandland, Hargrove and Franklin

Changing the interest rate on legal financial obligations.

MOTIONS

On motion of Senator Esser, Substitute Senate Bill No. 5611 was substituted for Senate Bill No. 5611 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Esser, the rules were suspended, Substitute Senate Bill No. 5611 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Esser and Kline 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. 5611.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5611 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 6; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 39

Voting nay: Senators Carrell, Honeyford, Morton, Mulliken, Parlette and Schoesler - 6

Excused: Senators Deccio, Doumit, Sheldon and Stevens - 4

SUBSTITUTE SENATE BILL NO. 5611, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5154, by Senators Pridemore and Zarelli

Changing the leasehold excise tax exemption for certain historical property. Revised for 2nd Substitute: Providing a

leasehold excise tax exemption for certain historical property.

MOTIONS

On motion of Senator Pridemore, Second Substitute Senate Bill No. 5154 was substituted for Senate Bill No. 5154 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Second Substitute Senate Bill No. 5154 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Zarelli and Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5154.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5154 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 44

Excused: Senators Deccio, Doumit, Sheldon and Stevens - 4

SECOND SUBSTITUTE SENATE BILL NO. 5154, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5895, by Senators Fraser, Poulsen, Morton, Regala, Pridemore, Jacobsen and Kohl-Welles

Increasing coordination between the Puget Sound action team and other governmental entities. Revised for 1st Substitute: Increasing coordination between the Puget Sound recovery partnership and other governmental entities.

MOTIONS

On motion of Senator Fraser, Substitute Senate Bill No. 5895 was substituted for Senate Bill No. 5895 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fraser, the rules were suspended, Substitute Senate Bill No. 5895 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Rockefeller spoke in favor of passage of the bill.

Senators Roach, Morton, Schoesler, Honeyford and Pflug spoke against passage of the bill.

MOTION

On motion of Senator Hewitt, Senator Parlette was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5895.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5895 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 18; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brown, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 27

Voting nay: Senators Benson, Benton, Brandland, Carrell, Delvin, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Parlette, Pflug, Schmidt, Schoesler, Swecker and Zarelli - 18

Excused: Senators Deccio, Doumit, Sheldon and Stevens - 4

SUBSTITUTE SENATE BILL NO. 5895, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

FLOOR SESSION SCHEDULE (Senate Rule 15)

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

SECOND READING

SENATE BILL NO. 5305, by Senators Rasmussen, Benton, Roach, Swecker, Zarelli, Regala, Stevens, Shin, Delvin, Franklin and Mulliken

MOTION

On motion of Senator Rasmussen, Engrossed Substitute Senate Bill No. 5305 was substituted for Senate Bill No. 5305 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Rasmussen moved that the following amendment by Senators Rasmussen and Keiser be adopted.

On page 1, line 9, after "meet" strike "any existing federal guideline" and insert "food and drug administration vaccine licensure requirements"

Senators Rasmussen and Brandland 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 Rasmussen on and Keiser page 1, line 9 to Engrossed Substitute Senate Bill No. 5305.

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

MOTION

On motion of Senator Rasmussen, the rules were suspended, Engrossed Substitute Senate Bill No. 5305 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rasmussen and Brandland spoke in favor of passage of the bill.

MOTION

On motion of Senator Weinstein, Senator Pridemore was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5305.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5305 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Deccio, Doumit, Sheldon and Stevens - 4

ENGROSSED SUBSTITUTE SENATE BILL NO. 5305, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5899, by Senators Kohl-Welles, Brandland and Rasmussen

Changing provisions relating to background checks.

MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5899 was substituted for Senate Bill No. 5899 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5899 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Carrell and Kohl-Welles 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. 5899.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5899 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators Deccio, Sheldon and Stevens - 3

SUBSTITUTE SENATE BILL NO. 5899, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5479, by Senators Berkey, Benton, Prentice, Esser and McAuliffe

Revising time periods in landlord/tenant actions. Revised for 1st Substitute: Changing provisions relating to the unlawful detainer process under the residential landlord-tenant act.

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MOTIONS

On motion of Senator Berkey, Substitute Senate Bill No. 5479 was substituted for Senate Bill No. 5479 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Berkey, the rules were suspended, Substitute Senate Bill No. 5479 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Berkey and Brandland spoke in favor of passage of the bill.

MOTION

On motion of Senator Hewitt, Senator Schmidt was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5479.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5479 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yeas: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Deccio, Schmidt, Sheldon and Stevens - 4

SUBSTITUTE SENATE BILL NO. 5479, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5831, by Senators Morton and Poulsen

Concerning well construction.

The measure was read the second time.

MOTION

On motion of Senator Poulsen, the rules were suspended, Senate Bill No. 5831 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Morton and Poulsen 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. 5831.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5831 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 8; Absent, 0; Excused, 4.

Voting yeas: Senators Benson, Berkey, Brandland, Brown, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 37

Voting nay: Senators Benton, Carrell, Honeyford, Johnson, McCaslin, Mulliken, Roach and Zarelli - 8

Excused: Senators Deccio, Schmidt, Sheldon and Stevens - 4
SENATE BILL NO. 5831, 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. 5599, by Senators Franklin, Kastama, Thibaudeau, Benson, Kline and McAuliffe

Nursing quality commission.

MOTION

On motion of Senator Franklin, Substitute Senate Bill No. 5599 was substituted for Senate Bill No. 5599 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 3, line 13, after "grants" strike "must" and insert "may".

Senator Franklin 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 Franklin on page 3, line 13 to Engrossed Substitute Senate Bill No. 5599.

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

MOTION

On motion of Senator Franklin, the rules were suspended, Engrossed Substitute Senate Bill No. 5599 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Franklin, Parlette and Keiser spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5599.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5599 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 13; Absent, 0; Excused, 3.

Voting yeas: Senators Benson, Berkey, Brandland, Brown, Carrell, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Thibaudeau, Weinstein and Zarelli - 33

Voting nay: Senators Benton, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, McCaslin, Morton, Mulliken, Pflug, Schmidt, Schoesler and Swecker - 13

Excused: Senators Deccio, Sheldon and Stevens - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 5599, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Schmidt: "Thank you Mr. President. We have an honored guest with us today that's going to be allowed to address us for just a few minutes. We know our schedules are very tight.

It's my honor and my pleasure to introduce to you Brigadier General Oscar Hilman. General Hilman was our Brigade commander for about approximately 3.5 thousand National Guards soldiers that are just now finishing their term in Iraq. As most of you know also General Hilman was responsible for the flag that we have here in the back of the chambers. He had sent it to us, it was the flag that was flown over camp Anaconda which is our Brigade headquarters there in Iraq for many of our state residents. I don't have time to go into a personal story but General Hilman and I go back about thirteen years. We've known each other a long time, we've served each other in various capacities and I've always considered both him and his wife Patty as very good friends and I think it's an honor to have you here today sir. We're glad to have you back home and we thank you for how you've represented all of us, the citizens in the state of Washington as being the commander of our citizen soldiers as they were serving in a time like this. Welcome."

REMARKS BY THE PRESIDENT

President Owen: "Brigadier General Hilman assumed his duties as the commander of the 81st armor Brigade on May 15, 2002 as the Brigade commander. He's responsible for the readiness and mobilization preparedness of the separate heavy Brigade consisting of two army battalions, one mechanized infantry battalion, one direct support artillery battalion, one combat engineer battalion, one forward support battalion, one military intelligence company, one cavalry troop, one air defense artillery and a headquarters and headquarters company. He began his very distinguished career in 1969. I'm very proud and honored to have this highly respected decorated solider with us today. General Hilman has just been noted, just returned from Iraq to lead the 81st Armor Brigade. It's my great privilege to be able to present him to you. General Hilman."

REMARKS BY GENERAL HILMAN

General Hilman: Thank you very much. Mr. President, honorable members of the Washington State Senate. I am honored to be here today and I want to share with you with a profound sense of pride and accomplishment that these citizen soldiers of Washington Army National Guard and 81st Brigade and combat team of successfully serving our nation and our state during operation Iraqi Freedom two. Just a little year ago the 81st Brigade combat team responding a call to our nation symbol of our evergreen state. Was the largest call up since World War II. We arrived in with 3200 men and women from Washington state augmented with proud soldiers from Minnesota and California bringing our total strength to 4,000 soldiers in Saudi, Kuwait and Iraq. We took with us 1,200 vehicles, Abram tanks, Bradley fighting vehicles. In about over 300 hummers. I'm privileged and proud to serve a stykibatic journal date 81st Brigade. It is reflected on what we strive to achieve to serve our nation and our state. During the twelve months in Iraq the 81st Brigade team represented Washington state with value and north ??? accomplishment. Our direct efforts to secure Iraq we will realizing June 28 with the early transfer of severity and perhaps our greatest accomplishment was the first democratic election occurred on January 30. During our combat tour in Iraq the 81st Brigade soldiers conducted 9,075 combat patrols. Seventy-seven combat raids, 197 searches and succeeded in 162 combat engagements. I'm here to report to you that we accomplished our mission with professionalism, honor and pride and a job well done. Our success however came with alternate sacrifice of loss of nine soldiers, three from Washington state, 5 from California and 1 from Michigan. We mourn with the loss of these soldiers and we all continue to serve with honor and pride assessment to this patriotism. Most of the 81st Brigade soldiers are home now. We look forward to full return of our soldiers by April 3. after

completing our demobilization at Fort Lewis the soldiers will enjoy much deserved time with their families. The soldiers will also return to their traditional national guard roles in civilian employment within the next two to three months. This combat tour was challenging and significant experience with the citizen soldiers of Washington state. I'm proud to stand here today to salute you, the Legislature, the Governor and our citizens for their outstanding support. Your warm welcome is also greatly appreciated by the men and women of the 81st Brigade soldiers and we thank you so much"

REMARKS BY THE PRESIDENT

President Owen: "The President would also like to recognize that General Hilman had his wife Patty with him and also with him today accompanying General Hilman in the south gallery are soldiers from the 81st Brigade. Senior non commissioned Officer of the 81st Brigade, Sergeant Major Barr and his wife Erin are with us today."

SECOND READING

SENATE BILL NO. 5705, by Senators Rockefeller, Schoesler, Rasmussen, Mulliken and McAuliffe

Avoiding fragmentation in bargaining units for classified school employees.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Bill No. 5705 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Schmidt spoke in favor of passage of the bill.

Senator Benson spoke against passage of the bill.

MOTION

On motion of Senator Regala, Senator Fairley was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5705.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5705 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 40

Voting nay: Senators Benson, Carrell, Hewitt, Honeyford, Johnson and Morton - 6

Excused: Senators Deccio, Fairley and Stevens - 3

SENATE BILL NO. 5705, 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. 5370, by Senators Brown, Benson, Shin, Sheldon, Eide, Kohl-Welles and McAuliffe

Creating the economic development strategic reserve account.

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MOTIONS

On motion of Senator Shin, Second Substitute Senate Bill No. 5370 was substituted for Senate Bill No. 5370 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Shin, the rules were suspended, Second Substitute Senate Bill No. 5370 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Shin, Pflug, Brown and Zarelli spoke in favor of passage of the bill.

MOTION

On motion of Senator Hewitt, Senator Schmidt was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5370.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5370 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Deccio and Stevens - 2

SECOND SUBSTITUTE SENATE BILL NO. 5370, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5809, by Senators Fairley and Kohl-Welles

Revising jurisdiction of youth courts.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Senate Bill No. 5809 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Fairley and Brandland 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. 5809.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5809 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Deccio and Stevens - 2

SENATE BILL NO. 5809, 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 10:32 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:25 a.m. by President Pro Tempore.

SECOND READING

SENATE BILL NO. 5492, by Senators Keiser, Deccio, Kline, Parlette, Mulliken and Pflug

Modifying hospital reporting of restrictions on health care practitioners.

MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5492 was substituted for Senate Bill No. 5492 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5492 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Haugen was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5492.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5492 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Deccio and Haugen - 2

SUBSTITUTE SENATE BILL NO. 5492, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6025, by Senators Shin, Kohl-Welles, Thibaudeau and Rasmussen

Expanding the office of the Washington state trade representative. Revised for 1st Substitute: Appointing a trade policy professional to represent the office of the Washington state trade representative.

MOTIONS

On motion of Senator Shin, Substitute Senate Bill No. 6025 was substituted for Senate Bill No. 6025 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Shin, the rules were suspended, Substitute Senate Bill No. 6025 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6025.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6025 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Voting nay: Senator McCaslin - 1

Excused: Senators Deccio and Haugen - 2

SUBSTITUTE SENATE BILL NO. 6025, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

The President assumed the chair.

SECOND READING

SENATE BILL NO. 5951, by Senators Rasmussen, Hewitt and Kohl-Welles

Affording certain information held by the horse racing commission the same protection from public inspection as other regulated entities.

MOTIONS

On motion of Senator Rasmussen, Substitute Senate Bill No. 5951 was substituted for Senate Bill No. 5951 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Rasmussen, the rules were suspended, Substitute Senate Bill No. 5951 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rasmussen and Hewitt 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. 5951.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5951 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senator Roach - 1

Excused: Senators Deccio and Haugen - 2

SUBSTITUTE SENATE BILL NO. 5951, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5069, by Senators Keiser, Kohl-Welles, Franklin, Thibaudeau, Brown, Kline and Regala

Establishing family leave insurance.

MOTION

On motion of Senator Keiser, Second Substitute Senate Bill No. 5069 was substituted for Senate Bill No. 5069 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 2, beginning on line 6, after "(1)" strike all material through "(2)" on line 13

On page 2, beginning on line 24, after "(6)" strike all material through "50.04.100" on line 26, and insert the following:

"(a) "Individual" means an employee who has been employed:

(i) For at least twelve months by the employer with respect to whom leave is requested under 29 U.S.C. 2612; and

(ii) For at least one thousand two hundred fifty hours of service with the employer during the previous twelve-month period.

(b) "Employee" does not include:

(i) Any federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (5 U.S.C. 6381 et seq.); or

(ii) Any employee of an employer who is employed at a worksite at which such employer employs less than fifty employees if the total number of employees employed by that employer within seventy-five miles of that worksite is less than fifty.

(c) For purposes of determining whether an employee meets the hours of service requirement specified in (a)(ii) of this subsection, the legal standards established under 29 U.S.C. 207 apply.

(7) "Employer" means any person engaged in commerce or in any industry or activity affecting commerce who employs fifty or more employees for each working day during each of twenty or more calendar workweeks in the current or preceding calendar year and includes:

(a) Any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer;

(b) Any successor in interest of an employer; and

(c) Any "public agency" as defined in 29 U.S.C. 203(x)."

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

On page 3, beginning on line 12, after "(14)" strike all material through "(15)" on line 16

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

On page 5, beginning on line 5, after "(2)" strike all material through "(3)" on line 7

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

Beginning on page 9, line 13, strike all of section 10

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

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Senator Honeyford spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 6 to Second Substitute Senate Bill No. 5069.

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

MOTION

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

On page 2, line 25, after "subdivisions." insert ""Employer" does not include a person or entity who employs eight or fewer individuals for each working day during each of twenty or more calendar workweeks in the current or preceding calendar year."

On page 12, line 1, after "(3)" insert "An employer of eight or fewer individuals may elect coverage under this chapter for all individuals. The employer must file a notice of election in writing with the director, as required by the department. The election becomes effective on the date of filing the notice.

(4)"

WITHDRAWAL OF AMENDMENT

On motion of Senator Rockefeller the amendment to Second Substitute Senate Bill No. 5069 was withdrawn.

MOTION

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

On page 2, line 25, after "subdivisions." insert ""Employer" does not include a person or entity who employs fewer than fifty employees."

On page 12, line 1, after "(3)" insert "An employer of fewer than fifty employees may elect coverage under this chapter for all individuals. The employer must file a notice of election in writing with the director, as required by the department. The election becomes effective on the date of filing the notice.

(4)"

Renumber the sections consecutively and correct any internal references accordingly.

Senators Benton and 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 Senator Benton on page 2, line 25 to Second Substitute Senate Bill No. 5069.

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

MOTION

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

On page 5, line 5, after "least" strike "six hundred eighty" and insert "nine hundred sixty"

On page 5, line 6, after "year" insert "or has been continuously employed for the twelve months preceding the month during which the employee files for benefits, whichever is less"

Senator Rasmussen 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 Rasmussen on page 5, line 5 to Second Substitute Senate Bill No. 5069.

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

MOTION

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

On page 7, line 22, after "(1)" strike "For weeks of family leave beginning before July 1, 2007, the" and insert "The"

On page 7, line 25, after "week." strike all material through "June 30th." on line 32.

On page 15, line 21, after "director" strike "shall adjust" and insert "may reduce"

Renumber the sections consecutively and correct any internal references accordingly.

Senators Benton and 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 Senator Benton on page 7, line 22 to Second Substitute Senate Bill No. 5069.

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

MOTION

Senator Benton moved that the following amendment by Senators Benton and Keiser be adopted.

On page 9, after line 12 of the amendment, strike all of section 10 and insert the following:

"NEW SECTION. Sec. 10. During a period in which an individual receives family leave insurance benefits under this chapter, the individual is entitled to family leave. Family leave for which an individual is receiving or received family leave insurance benefits under this chapter must be taken concurrently with leave under the federal family and medical leave act of 1993 (Act Feb.5, 1993, P.L. 103-3, 107 Stat. 6), chapter 49.78 RCW, or other applicable federal, state, or local law. At the established ending date of leave, the individual may be reinstated in his or her position with the employer from whom leave was taken under the applicable law most favorable to the individual. However, if the individual is not entitled to reinstatement on return from family leave under the federal family and medical leave act of 1993 (Act Feb.5, 1993, P.L. 103-3, 107 Stat. 6), chapter 49.78 RCW, or other applicable federal, state or local law, then there is no entitlement to reinstatement under this act."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Benton and 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 Benton and Keiser on page 9, after line 12 to Second Substitute Senate Bill No. 5069.

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

MOTION

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

On page 15, line 14, after "shall" strike "pay" and insert "submit"

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 Senator Keiser on page 15, line 14 to Second Substitute Senate Bill No. 5069.

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

MOTION

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

On page 15, line 31, after "section." insert "This subsection is not subject to collective bargaining."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Hewitt and Zarelli spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

Senator Esser demanded a division.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Hewitt on page 15, line 31 to Second Substitute Senate Bill No. 5069.

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

MOTION

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

On page 16, after line 21 insert the following:

"NEW SECTION. Sec. 22. This chapter shall only apply to cities with a population of five hundred thousand or more people."

Renumber the sections consecutively and correct any internal references accordingly.

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

Senator Brown spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 16, after line 21 to Engrossed Second Substitute Senate Bill No. 5069.

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

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5069 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

POINT OF ORDER

Senator Esser: "I submit to you that the measure before us imposes a new tax and raises state revenue and therefore under the provisions of Initiative 601 requires a two-thirds vote of this body for approval."

MOTION

On motion of Senator Eide, Engrossed Second Substitute Senate Bill No. 5069 was deferred and the bill held its place on the third reading calendar.

MOTION

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

MOTION

Senator Berkey moved adoption of the following resolution:

SENATE RESOLUTION
8643

By Senators Prentice and Berkey

WHEREAS, Ms. Elizabeth Anne McLaughlin, lovingly referred to as "Miss Liz," touched the lives of so many citizens of the state of Washington; and

WHEREAS, Miss Liz lived in Everett for nearly 55 years and was truly dedicated to the service of her community; and

WHEREAS, Miss Liz was remarkable because she never "outgrew" her friends - at the end of her life, she was still involved with people she worked with early in her career; and

WHEREAS, Miss Liz was active in her Democratic Party and was respectful of and respected by her friends in the Republican Party and approachable by all people; and

WHEREAS, Miss Liz worked for the Everett Community College's Family Life Program for 19 years; and

WHEREAS, She served on the Snohomish County Council from 1986 until 1995, when she retired and was honored with a tribute written into the Congressional Record; and

WHEREAS, Miss Liz helped create the Public Housing Trust Fund, assisted in the formation of the Dispute Resolution Center in Everett, and raised funds for the Imagine Children's Museum; and

WHEREAS, She was able to cross partisan boundaries and worked to speak for those without a political voice; and

WHEREAS, A true humanitarian, she treated everyone equally regardless of political, social, or economic status; and

WHEREAS, She dedicated countless hours of service to council boards, community and social service organizations, and committees; and

WHEREAS, Her human services work, her commitment to children, the elderly, the developmentally disabled, and the homeless, and her devotion to her constituents will not be forgotten; and

WHEREAS, She was a civic and political leader who lived a life that exemplified service to the community; and

WHEREAS, After a difficult 19-month battle with lymphoma, Miss Liz passed away on October 30, 2004, in Everett; she will long be remembered for her leadership, compassion, and dedication to improving the lives of others;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate hereby offer our deepest gratitude and honor the memory of Miss Liz, a shining example of democracy, and that we urge all citizens of the state of Washington to join us in recognizing this woman who was a model of service; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the family of Elizabeth McLaughlin.

Senators Berkey, Prentice, Schmidt, Haugen, Shin, Franklin and Fraser spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8643.

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

MOTION

At 12:32 p.m., on motion of Senator Eide, the Senate was declared to be at recess until 1:30 p.m.

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

MOTION

On motion of Senator Eide, the Senate reverted to the third

order of business.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS
MOTION

On motion of Senator Delvin, Gubernatorial Appointment No. 9171, Martha Rice, as a member of the Professional Educator Standards Board, be confirmed.

Senator Delvin spoke in favor of the motion.

MOTION

On motion of Senator Hewitt, Senator Pflug was excused.

APPOINTMENT OF MARTHA RICE

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 4; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senators Kline, McAuliffe, Parlette and Stevens - 4

Excused: Senators Deccio and Pflug - 2

MOTIONS

On motion of Senator Mulliken, Senators Stevens and Parlette were excused.

On motion of Senator Weinstein, Senators Kline and McAuliffe were excused.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Regala, Gubernatorial Appointment No. 9163, Karen L. Rademaker Simpson, as a member of the Professional Educator Standards Board, be confirmed.

Senator Regala spoke in favor of the motion.

APPOINTMENT OF KAREN L. RADEMAKER SIMPSON

The Secretary called the roll. The appointee was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCauley, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Deccio and Pflug - 2

MOTION

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

SECOND READING

SENATE BILL NO. 5773, by Senators Fraser, Fairley, Kohl-Welles, Rockefeller, Kline and Pridemore

Protecting homeowners who hire contractors to remodel or build their homes.

MOTION

On motion of Senator Fraser, Second Substitute Senate Bill No. 5773 was substituted for Senate Bill No. 5773 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 2, beginning on line 33, after "principals," strike all material through "have" on line 34 and insert "and the employee with the greatest executive,"

On page 2, line 28, after "section" strike "6" and insert "4"

On page 3, line 1, after "the" strike "six" and insert "three"

On page 3, beginning on line 11, after "principals," strike all material through "have" on line 12 and insert "and the employee with the greatest executive,"

On page 3, at the beginning of line 16, after "the" strike "six" and insert "three"

On page 4, line 5, after "homeowner." insert "Nothing in this section requires a contractor to create or maintain a separate account for each homeowner."

On page 5, line 27, after "against" insert "the prime residential contractor or"

On page 6, line 7, after "against" insert "the residential subcontractor or"

On page 7, line 4, after "the" strike "six" and insert "three"

On page 8, line 8, after "Within" strike "fourteen" and insert "thirty"

On page 8, line 10, after "within" strike "forty-two" and insert "sixty"

On page 10, line 6, after "perjury," insert "(a) a notarized statement stating that the homeowner paid the contractor for all amounts the contractor informed the homeowner were owed to the lien claimant, and that the homeowner did not receive written notice from the contractor, as provided under section 2(3)(b)(ii) of this act, indicating the contractor did not intend to fully pay the lien claimant; and (b)"

On page 10, line 17, after "filed." insert "The effective date of the suspension shall be the date that the contractor completes work on all construction projects in progress on the date of the notice from the department as provided for under subsection (5) of this section."

On page 21, line 16, after "other" strike "acknowledgement" and insert "((acknowledgement)) acknowledgment"

On page 27, line 4, after "of the" strike "six" and insert "three"

On page 27, beginning on line 9, after "principal," strike all material through "physical" on line 10 and insert "and the employee with the greatest executive, physical."

On page 32, beginning on line 8, after "principals," strike all material through "physical" on line 9 and insert "and the employee with the greatest executive, physical."

Senator Fraser 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 Fraser on page 2, line 33 to Second Substitute Senate Bill No. 5773.

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

MOTION

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

On page 32, after line 16, insert the following:

"NEW SECTION. Sec. 12. A new section is added to chapter 64.38 RCW to read as follows:

(1) The governing documents may not prohibit the outdoor display of political yard signs by an owner or resident on the owner's or resident's property before any primary or general election. The governing documents may include reasonable rules and regulations regarding the placement and manner of display of political yard signs.

(2) This section applies retroactively to any governing documents in effect on the effective date of this section. Any provision in a governing document in effect on the effective date of this section that is inconsistent with this section is void and unenforceable."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, on line 4 of the title, after "RCW;", insert " adding a new section to chapter 64.38 RCW;"

WITHDRAWAL OF AMENDMENT

On motion of Senator Benton the amendment to Second Substitute Senate Bill No. 5773 was withdrawn.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 60.04.250 and 1990 c 81 s 1 are each amended to read as follows:

The department of labor and industries shall prepare master documents that provide informational material about:

(1) Construction lien laws and available safeguards against real property lien claims. The material shall include methods of protection against lien claims, including obtaining lien release documents, performance bonds, joint payee checks, the opportunity to require contractor disclosure of all potential lien claimants as a condition of payment, and lender supervision under RCW 60.04.200 and 60.04.210. The material shall also include sources of further information, including the department of labor and industries and the office of the attorney general.

(2) The basics of lien law relating to owner-occupied residential improvements and new construction projects, including a list of available safeguards against real property lien claims, which the homeowner must consider, reject, or select. Before any building permit may be issued for the construction of a new owner-occupied single-family residence or for the improvement to an owner-occupied single-family residence for an amount in excess of one thousand dollars, if the construction will involve the services of a prime contractor, the permit issuing agency shall not issue any permit until the homeowner has personally, and not through an agent, acknowledged receipt of the document. When the homeowner completes the document by making selections, as indicated in the document, and submits it to the agency, the permit issuing agency shall maintain a copy of the completed document in the file of the permit issuing agency relating to the homeowner's permit application. The document shall be in substantially the following form and shall also include information describing the scope and limits of state contractor bonding requirements, the provisions of this act, and the availability of

further information, including the department of labor and industries and the office of the attorney general.

Dear Homeowner:

You must complete the items below and select from the options below what protection, if any, you want against potential lien claims on your property as a result of the construction work for which you are contracting. If your contractor fails to pay subcontractors, suppliers, or laborers or neglects to make other legally required payments, those who are owed money can file a lien against your property for payment, even if you have paid your contractor in full. Anyone filing a valid lien claim may force the sale of your property to recover the unpaid amount. This is true if you have hired a contractor to build a new home or are buying a newly built home. It is also true when you remodel or improve your property.

People who supply materials or labor ordered by your contractor are permitted by law to file a lien only if they do so within ninety days of cessation of performance or delivery of materials. The time frame is spelled out in RCW 60.04.091.

If you enter into a contract to buy a newly built home, you may not receive a notice of a lien based on a claim by a contractor or material supplier. You should inquire of your lender and title insurer about title insurance coverage for liens that may arise from the construction of your home, but that are not recorded until after you take possession of your home. Be aware that a lien may be claimed even though you have not received a notice. Before making final payment on the project, obtain a completed lien release form from each contractor and material supplier. A sample of this release of lien form is available from the department of labor and industries, contractor registration section.

You have final responsibility for seeing that all bills are paid even if you have paid your contractor in full.

If you are dealing with a lending institution, ask your loan officer what precautions the lending institution takes to verify that subcontractors and material suppliers are being paid when mortgage money is paid to your contractor. You may want to request lender supervision if your lending institution is providing interim or construction financing.

If you receive a notice to enforce a lien, take the notice seriously. Let your contractor know you have received the notice. Find out what arrangements are being made to pay the sender of the notice.

When in doubt, or if you need more details, consult your attorney. When and how to pay your contractor is a decision that requires serious consideration. Washington law, RCW 18.27.114, requires contractors to give you this disclosure statement if your contract exceeds one thousand dollars.

Complete the following information, select below how you want to protect yourself from possible lien claims on your property, and inform your contractor of your selections or discuss your selections with your contractor.

I, (owner's name)

am agreeing to have (contractor's name)

perform the following construction work (basic description)
at (location of your property using an address, legal description or approximate address)

in the amount of \$ including all federal, state, and local taxes, and this amount may be adjusted only if authorized by me in writing.

To protect myself against possible lien claims in the future for this work, I (select one):

. will only issue checks made payable jointly, naming the contractor and the subcontractor or supplier as payees.

. will only issue checks to the contractor and subcontractors in the amounts equal to the amounts for which lien releases that release all lien rights to those amounts, as provided by RCW 60.04.071, have been provided to me by each lien claimant requesting payment.

. want the contractor to post a bond to assure both performance of this construction work and payment to all subcontractors and suppliers in the amount of (select one) . . . the total contract amount . . . in the amount of \$ (Note:

Your contractor may add the cost of this bond to your contract price.)

..... will be using as an escrow agent to disburse construction funds and to protect my interests. (NOTE: Before making this selection, find out whether the escrow agent you plan to use will protect you against liens when disbursing payments. If you are interested in using this alternative, consult your attorney.)

..... want this contractor to set up a trust account for all funds I pay to this contractor, and the trust funds must be disbursed in accordance with our construction agreement to subcontractors and suppliers.

..... DO NOT want any of the above protections from potential lien claims against my property as a result of this construction work.

In addition to the above selection, I choose ONE of the following: ... WANT ... DO NOT WANT the prime residential contractor to disclose all potential lien claimants as a condition of payment. (NOTE: A lien claimant must, under RCW 60.04.091, mail by certified or registered mail or by personal service a copy of the claim of lien to the owner within fourteen days of the time the lien is recorded. While an action is ongoing, the law, RCW 60.04.151, allows an owner to withhold from this prime residential contractor the amount of money for which a claim is recorded by a subcontractor, supplier, or laborer.)

More information about contractors is available by visiting the department of labor and industries on the Internet at www.LNI.wa.gov/SCS/contractors/ or by calling the contractor registration hotline at 1-800-647-0982. You may also call your local department of labor and industries office. See listings under "Washington state of" in the government section or the white pages of the telephone book.

Signed by (property owner):

Date signed:

Sec. 2. RCW 18.27.020 and 1997 c 314 s 3 are each amended to read as follows:

(1) Every contractor shall register with the department.

(2) It is a gross misdemeanor for any contractor to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended or revoked;

(c) Use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required; or

(d) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(3) It is not unlawful for a general contractor to employ an unregistered contractor who was registered at the time he or she entered into a contract with the general contractor, unless the general contractor or his or her representative has been notified in writing by the department of labor and industries that the contractor has become unregistered.

(4) All ((misdemeanor)) actions under this chapter shall be prosecuted in the county where the infraction occurs.

(5) A person is guilty of a separate gross misdemeanor for each day worked if, after the person receives a citation from the department, the person works while unregistered, or while his or her registration is suspended or revoked, or works under a registration issued to another contractor. A person is guilty of a separate gross misdemeanor for each worksite on which he or she violates subsection (2) of this section. Nothing in this subsection applies to a registered contractor.

(6) The director by rule shall establish a two-year audit and monitoring program for a contractor not registered under this chapter who becomes registered after receiving an infraction or conviction under this chapter as an unregistered contractor. The director shall notify the departments of revenue and employment security of the infractions or convictions and shall cooperate with

these departments to determine whether any taxes or registration, license, or other fees or penalties are owed the state.

Sec. 3. RCW 60.04.031 and 1992 c 126 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this section, every person furnishing professional services, materials, or equipment for the improvement of real property shall give the owner or reputed owner notice in writing of the right to claim a lien. If the prime contractor is in compliance with the requirements of RCW 19.27.095, 60.04.230, and 60.04.261, this notice shall also be given to the prime contractor as described in this subsection unless the potential lien claimant has contracted directly with the prime contractor. The notice may be given at any time but only protects the right to claim a lien for professional services, materials, or equipment supplied after the date which is sixty days before:

(a) Mailing the notice by certified or registered mail to the owner or reputed owner; or

(b) Delivering or serving the notice personally upon the owner or reputed owner and obtaining evidence of delivery in the form of a receipt or other acknowledgement signed by the owner or reputed owner or an affidavit of service.

In the case of new construction, repair, alteration, or remodel of a single-family residence or garage appurtenant to a single-family residence, the notice of a right to claim a lien may be given at any time but only protects the right to claim a lien for professional services, materials, or equipment supplied after a date which is ten days before the notice is given as described in this subsection.

(2) Notices of a right to claim a lien shall not be required of:

(a) Persons who contract directly with the owner or the owner's common law agent;

(b) Laborers whose claim of lien is based solely on performing labor; or

(c) Subcontractors who contract for the improvement of real property directly with the prime contractor, except as provided in subsection (3)(b) of this section.

(3) Persons who furnish professional services, materials, or equipment in connection with the new construction, repair, alteration, or remodel of ((an existing owner-occupied)) a single-family residence or appurtenant garage:

(a) Who contract directly with the ((owner-occupier or their)) owner or the owner's common law agent shall not be required to send a written notice of the right to claim a lien and shall have a lien for the full amount due under their contract, as provided in RCW 60.04.021; or

(b) Who do not contract directly with the ((owner-occupier or their)) owner or the owner's common law agent shall give notice of the right to claim a lien to the ((owner-occupier)) owner. ((Liens of persons furnishing professional services, materials, or equipment who do not contract directly with the owner-occupier or their common law agent may only be satisfied from amounts not yet paid to the prime contractor by the owner at the time the notice described in this section is received, regardless of whether amounts not yet paid to the prime contractor are due. For the purposes of this subsection "received" means actual receipt of notice by personal service, or registered or certified mail, or three days after mailing by registered or certified mail, excluding Saturdays, Sundays, or legal holidays.))

(4) The notice of right to claim a lien described in subsection (1) of this section, shall include but not be limited to the following information and shall substantially be in the following form, using lower-case and upper-case ten-point type where appropriate.

NOTICE TO OWNER

IMPORTANT: READ BOTH SIDES OF THIS NOTICE CAREFULLY.

PROTECT YOURSELF FROM PAYING TWICE

To: Date:

SIXTY-FIRST DAY, MARCH 15, 2005

Re: (description of property: Street address or general location.)

From:
AT THE REQUEST OF: (Name of person ordering the professional services, materials, or equipment)

THIS IS NOT A LIEN--THIS NOTICE IS MEANT TO PROVIDE YOU WITH INFORMATION NECESSARY TO PROPERLY MANAGE YOUR CONSTRUCTION PROJECT:

This notice is sent to you to tell you who is providing professional services, materials, or equipment for the improvement of your property and to advise you of the rights of these persons and your responsibilities. Also take note that laborers on your project may claim a lien without sending you a notice.

O W N E R / O C C U P I E R O F E X I S T I N G
R E S I D E N T I A L P R O P E R T Y A N D / O R
N E W R E S I D E N T I A L P R O P E R T Y

Under Washington law, those who furnish labor, professional services, materials, or equipment for the repair, remodel, or alteration of your owner-occupied principal residence and who are not paid, have a right to enforce their claim for payment against your property. This claim is known as a construction lien.

The law limits the amount that a lien claimant can claim against your property. ((Claims may only be made against that portion of the contract price you have not yet paid to your prime contractor as of the time this notice was given to you or three days after this notice was mailed to you.)) If the improvement to your property is new construction, repair, alteration, or remodel of a single-family residence or its appurtenant garage, a lien may be claimed for some or all professional services, materials, or equipment furnished after a date that is ten days before this notice was given to you or mailed to you. Review the back of this notice for more information and ways to avoid lien claims.

C O M M E R C I A L ((A N D / O R N E W
R E S I D E N T I A L)) P R O P E R T Y

We have or will be providing professional services, materials, or equipment for the improvement of your commercial ((or new residential)) project. In the event you or your contractor fail to pay us, we may file a lien against your property. A lien may be claimed for all professional services, materials, or equipment furnished after a date that is sixty days before this notice was given to you or mailed to you((, unless the improvement to your property is the construction of a new single-family residence, then ten days before this notice was given to you or mailed to you)).

Sender:
Address:
Telephone:

Brief description of professional services, materials, or equipment provided or to be provided:

I M P O R T A N T I N F O R M A T I O N
O N R E V E R S E S I D E

I M P O R T A N T I N F O R M A T I O N
F O R Y O U R P R O T E C T I O N

This notice is sent to inform you that we have or will provide professional services, materials, or equipment for the improvement of your property. We expect to be paid by the person who ordered our services, but if we are not paid, we have the right to enforce our claim by filing a construction lien against your property.

LEARN more about the lien laws and the meaning of this notice by discussing them with your contractor, suppliers, Department of Labor and Industries, the firm sending you this notice, your lender, or your attorney.

COMMON METHODS TO AVOID CONSTRUCTION LIENS: There are several methods available to protect your property from construction liens. The following are two of the more commonly used methods.

DUAL PAYCHECKS (Joint Checks): When paying your contractor for services or materials, you may make checks payable jointly to the contractor and the firms furnishing you this notice.

LIEN RELEASES: You may require your contractor to provide lien releases signed by all the suppliers and subcontractors from whom you have received this notice. If they cannot obtain lien releases because you have not paid them, you may use the dual payee check method to protect yourself.

YOU SHOULD TAKE APPROPRIATE STEPS TO PROTECT YOUR PROPERTY FROM LIENS.

YOUR PRIME CONTRACTOR AND YOUR CONSTRUCTION LENDER ARE REQUIRED BY LAW TO GIVE YOU WRITTEN INFORMATION ABOUT LIEN CLAIMS. IF YOU HAVE NOT RECEIVED IT, ASK THEM FOR IT.

* * * * *

(5) Every potential lien claimant providing professional services where no improvement as defined in RCW 60.04.011(5) (a) or (b) has been commenced, and the professional services provided are not visible from an inspection of the real property may record in the real property records of the county where the property is located a notice which shall contain the professional service provider's name, address, telephone number, legal description of the property, the owner or reputed owner's name, and the general nature of the professional services provided. If such notice is not recorded, the lien claimed shall be subordinate to the interest of any subsequent mortgagee and invalid as to the interest of any subsequent purchaser if the mortgagee or purchaser acts in good faith and for a valuable consideration acquires an interest in the property prior to the commencement of an improvement as defined in RCW 60.04.011(5) (a) or (b) without notice of the professional services being provided. The notice described in this subsection shall be substantially in the following form:

N O T I C E O F F U R N I S H I N G
P R O F E S S I O N A L S E R V I C E S

That on the (day) day of (month and year), (name of provider) began providing professional services upon or for the improvement of real property legally described as follows:
[Legal Description is mandatory]

The general nature of the professional services provided is ...

The owner or reputed owner of the real property is
.....

.....
(Signature)

.....
(Name of Claimant)

.....
(Street Address)

.....
(City, State, Zip Code)

.....
(Phone Number)

(6) A lien authorized by this chapter shall not be enforced unless the lien claimant has complied with the applicable provisions of this section."

On page 1, line 2 of the title, after "homes;" strike the remainder of the title and insert "amending RCW 60.04.250, 18.27.020, and 60.04.031."

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

Senator Fraser spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Honeyford to .

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 60.04.031 and 1992 c 126 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this section, every person furnishing professional services, materials, or equipment for the improvement of real property shall give the owner or reputed owner notice in writing of the right to claim a lien. If the prime contractor is in compliance with the requirements of RCW 19.27.095, 60.04.230, and 60.04.261, this notice shall also be given to the prime contractor as described in this subsection unless the potential lien claimant has contracted directly with the prime contractor. The notice may be given at any time but only protects the right to claim a lien for professional services, materials, or equipment supplied after the date which is sixty days before:

(a) Mailing the notice by certified or registered mail to the owner or reputed owner; or

(b) Delivering or serving the notice personally upon the owner or reputed owner and obtaining evidence of delivery in the form of a receipt or other ((acknowledgement)) acknowledgment signed by the owner or reputed owner or an affidavit of service.

In the case of new construction, repair, alteration, or remodel of a single-family residence or appurtenant garage for a residential homeowner, the notice of a right to claim a lien may be given at any time but only protects the right to claim a lien for professional services, materials, or equipment supplied after ((a date which is ten days before)) the notice is given as described in this subsection.

(2) Notices of a right to claim a lien shall not be required of:

(a) Persons who contract directly with the owner or the owner's common law agent;

(b) Laborers whose claim of lien is based solely on performing labor; or

(c) Subcontractors who contract for the improvement of real property directly with the prime contractor, except as provided in subsection (3)(b) of this section.

(3)(a) Persons who furnish professional services, materials, or equipment in connection with the new construction, repair, alteration, or remodel of ((an existing owner-occupied)) a single-family residence or appurtenant garage for a residential homeowner;

((t)) (i) Who contract directly with the ((owner-occupier or their)) owner or the owner's common law agent shall not be required to send a written notice of the right to claim a lien and shall have a lien for the full amount due under their contract, as provided in RCW 60.04.021; or

((t)) (ii) Who do not contract directly with the ((owner-occupier or their)) owner or the owner's common law agent shall

give notice of the right to claim a lien to the ((owner-occupier)) owner. Liens of persons furnishing professional services, materials, or equipment who do not contract directly with the ((owner-occupier or their)) owner or the owner's common law agent may only be satisfied from actual amounts designated in the contract for the professional services, materials, or equipment supplied upon which the lien claim is based and not yet paid to the prime contractor by the owner at the time the notice described in this section is received, regardless of whether amounts not yet paid to the prime contractor are due. For lien claims under this subsection (3)(a)(ii) based on new construction, repair, alteration, or remodel of a single-family residence or appurtenant garage for a residential homeowner, recoveries may not exceed ten percent of the total construction contract amount.

((For the purposes of this subsection)) (b) The definitions in this subsection apply throughout (a)(ii) of this subsection unless the context clearly requires otherwise.

(i) "Received" means actual receipt of notice by personal service, or registered or certified mail, or three days after mailing by registered or certified mail, excluding Saturdays, Sundays, or legal holidays.

(ii) "Professional services, materials, or equipment supplied" do not include any professional services, materials, or equipment supplied by a subcontractor performing the new construction, repair, alteration, or remodel of a single-family residence or appurtenant garage for a residential homeowner.

(4) The notice of right to claim a lien described in subsection (1) of this section, shall include but not be limited to the following information and shall substantially be in the following form, using lower-case and upper-case ten-point type where appropriate.

NOTICE TO OWNER

IMPORTANT: READ BOTH SIDES OF THIS NOTICE CAREFULLY.

PROTECT YOURSELF FROM PAYING TWICE

To: Date:

Re: _____ (description of property: Street address or general location.)

From:

AT THE REQUEST OF: _____ (Name of person ordering the professional services, materials, or equipment)

THIS IS NOT A LIEN-THIS NOTICE IS MEANT TO PROVIDE YOU WITH INFORMATION NECESSARY TO PROPERLY MANAGE YOUR CONSTRUCTION PROJECT.

This notice is sent to you to tell you who is providing professional services, materials, or equipment for the improvement of your property and to advise you of the rights of these persons and your responsibilities. Also take note that laborers on your project may claim a lien without sending you a notice.

OWNER / OCCUPIER OF EXISTING RESIDENTIAL PROPERTY AND / OR NEW RESIDENTIAL PROPERTY

Under Washington law, those who furnish labor, professional services, materials, or equipment for the repair, remodel, or alteration of your owner-occupied principal residence and who are not paid, have a right to enforce their claim for payment against your property. This claim is known as a construction lien.

The law limits the amount that a lien claimant can claim against your property. If the improvement to your property is the new construction, repair, alteration, or remodel of a single-family residence or appurtenant garage for a residential homeowner, a lien may be claimed for all professional services, materials, or equipment furnished after the date this notice was given to you or mailed to you. Claims may only be made against that portion of the contract price you have not yet paid to your prime contractor

SIXTY-FIRST DAY, MARCH 15, 2005

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as of the time this notice was given to you or three days after this notice was mailed to you. Review the back of this notice for more information and ways to avoid lien claims.

C O M M E R C I A L ((A N D / O R — N E W
RESIDENTIAL)) PROPERTY

We have or will be providing professional services, materials, or equipment for the improvement of your commercial ((or new residential)) project. In the event you or your contractor fail to pay us, we may file a lien against your property. A lien may be claimed for all professional services, materials, or equipment furnished after a date that is sixty days before this notice was given to you or mailed to you ((unless the improvement to your property is the construction of a new single-family residence, then ten days before this notice was given to you or mailed to you)).

Sender:
Address:

Telephone:

Brief description of professional services, materials, or equipment provided or to be provided:

I M P O R T A N T I N F O R M A T I O N
ON REVERSE SIDE

I M P O R T A N T I N F O R M A T I O N
FOR YOUR PROTECTION

This notice is sent to inform you that we have or will provide professional services, materials, or equipment for the improvement of your property. We expect to be paid by the person who ordered our services, but if we are not paid, we have the right to enforce our claim by filing a construction lien against your property.

LEARN more about the lien laws and the meaning of this notice by discussing them with your contractor, suppliers, Department of Labor and Industries, the firm sending you this notice, your lender, or your attorney.

COMMON METHODS TO AVOID CONSTRUCTION LIENS:
There are several methods available to protect your property from construction liens. The following are two of the more commonly used methods.

DUAL PAYCHECKS (Joint Checks): When paying your contractor for services or materials, you may make checks payable jointly to the contractor and the firms furnishing you this notice.

LIEN RELEASES: You may require your contractor to provide lien releases signed by all the suppliers and subcontractors from whom you have received this notice. If they cannot obtain lien releases because you have not paid them, you may use the dual payee check method to protect yourself.

YOU SHOULD TAKE APPROPRIATE STEPS TO PROTECT
YOUR PROPERTY FROM LIENS.

YOUR PRIME CONTRACTOR AND YOUR CONSTRUCTION
LENDER ARE REQUIRED BY LAW TO GIVE YOU
WRITTEN INFORMATION ABOUT LIEN CLAIMS. IF YOU
HAVE NOT RECEIVED IT, ASK THEM FOR IT.

* * * * *

(5) Every potential lien claimant providing professional services where no improvement as defined in RCW 60.04.011(5) (a) or (b) has been commenced, and the professional services provided are not visible from an inspection of the real property may record in the real property records of the county where the property is located a notice which shall contain the professional service provider's name, address, telephone number, legal description of the property, the owner or reputed owner's name, and the general nature of the professional services provided. If such notice is not recorded, the lien claimed shall be subordinate to the interest of any subsequent mortgagee and invalid as to the interest of any subsequent purchaser if the mortgagee or purchaser acts in good

faith and for a valuable consideration acquires an interest in the property prior to the commencement of an improvement as defined in RCW 60.04.011(5) (a) or (b) without notice of the professional services being provided. The notice described in this subsection shall be substantially in the following form:

N O T I C E O F F U R N I S H I N G
P R O F E S S I O N A L S E R V I C E S

That on the (day) day of (month and year), (name of provider) began providing professional services upon or for the improvement of real property legally described as follows:
[Legal Description is mandatory]

The general nature of the professional services provided is
The owner or reputed owner of the real property is

.....
(Signature)

.....
(Name of Claimant)

.....
(Street Address)

.....
(City, State, Zip Code)

.....
(Phone Number)

(6) A lien authorized by this chapter shall not be enforced unless the lien claimant has complied with the applicable provisions of this section.

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

(a) "Commercial property" includes residential property that is not owned by a residential homeowner.

(b) "Residential homeowner" means the owner or potential owner that occupies or will occupy a single-family residence at the completion of the new construction, repair, alteration, or remodel of the single-family residence or appurtenant garage as his or her residence.

Sec. 2. RCW 60.04.021 and 1991 c 281 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section and RCW 60.04.031, any person furnishing labor, professional services, materials, or equipment for the improvement of real property shall have a lien upon the improvement for the contract price of labor, professional services, materials, or equipment furnished at the instance of the owner, or the agent or construction agent of the owner.

(2) If a potential lien claimant knew or should have known that a prime residential contractor had been the prime residential contractor or construction agent on a single-family residential improvement project with respect to which:

(a) A residential homeowner paid the prime residential contractor for goods or services supplied by the potential lien claimant;

(b) The prime residential contractor failed to pay the potential lien claimant's contract price for such goods or services; and

(c) The potential lien claimant recorded or otherwise pursued a collection action or claim of lien against the homeowner in the previous three years; the potential lien claimant shall have no lien right upon the improvement for labor, professional services, materials, or equipment furnished on behalf of the homeowner at the instance of the prime residential contractor or construction agent employed by a prime residential contractor unless, before supplying any service, materials, or equipment that may be subject to a lien under this chapter, the potential lien claimant has provided written notice to the homeowner of all circumstances surrounding the filing, pursuit, and resolution of such claim, and the homeowner, in writing, affirmatively instructs the potential lien claimant to supply the requested service, materials, or equipment.

NEW SECTION. Sec. 3. A new section is added to chapter 60.04 RCW to read as follows:

(1) Any potential lien claimant may give notice as provided in subsections (2) and (3) of this section if the potential lien claimant has not received a payment from a prime residential contractor: (a) Within thirty days after the date required by their contract, invoice, or purchase order; or (b) if no due date is specified in the contract, invoice, or purchase order, within sixty days after the goods or services specified in the contract, invoice, or purchase order have been provided or delivered.

(2) The notice shall be signed by the potential lien claimant or some person authorized to act on his or her behalf.

(3) The notice shall be in writing and shall be mailed or delivered to the residential homeowner with a copy mailed or given to the prime residential contractor within fourteen days after the date provided for in subsection (1) of this section. The notice shall be given by:

(a) Mailing the notice to the residential homeowner and prime residential contractor using any mail service by which a record of the date of mailing is authenticated by the United States post office; or

(b) Delivering or serving the notice personally and obtaining evidence of delivery in the form of a receipt or other acknowledgment signed by the residential homeowner and prime residential contractor or an affidavit of service.

(4) The notice shall state in substance and effect as follows:

(a) The person, firm, trustee, or corporation filing the notice has furnished labor, professional services, materials, or equipment for which a lien is given by this chapter;

(b) The name of the prime residential contractor ordering the same;

(c) A common or street address of the real property being improved or the legal description of the real property;

(d) The name, business address, and telephone number of the lien claimant; and

(e) The sums due and to become due, for which a potential lien claimant may claim a lien under this chapter.

The notice may contain additional information but shall be in substantially the following form:

NOTICE TO RESIDENTIAL HOMEOWNER OF LATE PAYMENT

(Authorized by RCW)

TO:
(Name of Homeowner)

.
(Street Address)

.
(City) (State) (Zip)

AND TO:
(Prime Residential Contractor)

(Name of Laborer, Professional, Materials, or Equipment Supplier) whose business address is, did at the property located at

(Check appropriate box) () perform labor () furnish professional services () provide materials () supply equipment as follows:

.....
which was ordered by
(Name of Person)
whose address was stated to be

.....
The amount owing to the undersigned according to contract or purchase order for labor, supplies, or equipment (as abovementioned) is the sum of Dollars (\$). Said sums became due and owing as of

(State Date)

.....
You are hereby notified that said amount owing is currently past due by not less than fourteen days.

IMPORTANT

Failure to rectify this payment deficiency may subject the residential homeowner to a lien pursuant to RCW 60.04.021.

(5)(a) If the potential lien claimant presents to the department evidence that the lien claimant has commenced a lien or other collection action against the contractor pursuant to RCW 60.04.021(2), and the homeowner presents to the department, under penalty of perjury (i) a notarized statement stating that the homeowner paid the contractor for all amounts the contractor informed the homeowner were owed to the lien claimant, and (ii) the original or a true and accurate copy of the notice provided to the homeowner pursuant to this section, the department shall notify the prime residential contractor.

(b) Within five business days of receipt of such notice from the department, the contractor shall provide to the department (i) a surety bond or other good and sufficient security with the department in the amount of claimed deficient payment, or (ii) a notarized statement, submitted under penalty of perjury: (A) Stating that the contractor had not received full payment from the homeowner of amounts billed by the contractor for the lien claimant; or (B) stating that the contractor had provided the homeowner, no later than the date payment for the lien claimant was received from the homeowner, that the contractor had provided the homeowner with a written notice that the contractor did not intend to fully pay the lien claimant; and (C) providing written documentation supporting the statements made in either (A) or (B) of this subsection (5)(b)(ii).

(6) The department shall suspend the registration of any prime residential contractor while sufficient security as required under subsection (5) of this section is not filed. The effective date of the suspension shall be the date that the contractor completes work on all construction projects in progress on the date of the notice from the department as provided for under subsection (5) of this section. The department shall establish by rule and charge a reasonable fee to cover the costs of processing documents submitted to the department under this section.

(7) For the purposes of this section, the notice is received when any of the following occur: The day of actual receipt of the notice by personal service, or registered or certified mail; or three days after mailing by registered or certified mail, excluding Saturdays, Sundays, or legal holidays.

Sec. 4. RCW 60.04.091 and 1992 c 126 s 7 are each amended to read as follows:

Except as provided under subsection (3) of this section, every person claiming a lien under RCW 60.04.021 shall file for recording, in the county where the subject property is located, a notice of claim of lien not later than ninety days after the person has ceased to furnish labor, professional services, materials, or equipment or the last date on which employee benefit contributions were due. ((The notice of claim of lien.))

(1) The notice of claim of lien shall state in substance and effect:

(a) The name, ((phone)) telephone number, and address of the claimant;

(b) The first ((and)) date on which the claimant began to perform labor, provide professional services, or supply material or

equipment or the first date on which employee benefits became due:

(c) The last date on which the labor, professional services, materials, or equipment was furnished or employee benefit contributions were due;

((e)) (d) The name of the person indebted to the claimant;

((f)) (e) The street address, legal description, or other description reasonably calculated to identify, for a person familiar with the area, the location of the real property to be charged with the lien;

((f)) (f) The name of the owner or reputed owner of the property, if known, and, if not known, that fact shall be stated; ((and

((f)) (g) The principal amount for which the lien is claimed, excluding any interest, late fees, costs, attorneys' fees, or similar charges; and

(h) Whether the claimant is the assignee of the claim.

(2) The notice of claim of lien shall be signed by the claimant or some person authorized to act on his or her behalf who shall affirmatively state they have read or heard and understand the notice of claim of lien ((and)), believe the ((notice of claim of lien)) contents to be true and correct, and the lien is not frivolous and is not clearly excessive, under penalty of perjury, and shall be acknowledged as set forth in the form below, or pursuant to chapter 64.08 RCW. If the lien has been assigned, the name of the assignee shall be stated. Where an action to foreclose the lien has been commenced such notice of claim of lien may be amended as pleadings may be by order of the court insofar as the interests of third parties are not adversely affected by such amendment. A claim of lien substantially in the following form shall be sufficient:

CLAIM OF LIEN

....., claimant, vs, name of person indebted to claimant: Notice is hereby given that the person named below claims a lien pursuant to chapter ((64.04)) 60.04 RCW. In support of this lien the following information is submitted:

1. NAME OF LIEN CLAIMANT:
TELEPHONE NUMBER:

ADDRESS:

2. DATE ON WHICH THE CLAIMANT BEGAN TO PERFORM LABOR, PROVIDE PROFESSIONAL SERVICES, SUPPLY MATERIAL OR EQUIPMENT OR THE DATE ON WHICH EMPLOYEE BENEFIT CONTRIBUTIONS BECAME DUE:

3. NAME OF PERSON INDEBTED TO THE CLAIMANT:

4. DESCRIPTION OF THE PROPERTY AGAINST WHICH A LIEN IS CLAIMED (Street address, legal description or other information that will reasonably describe the property):

5. NAME OF THE OWNER OR REPUTED OWNER (If not known state "unknown"):

6. THE LAST DATE ON WHICH LABOR WAS PERFORMED; PROFESSIONAL SERVICES WERE FURNISHED; CONTRIBUTIONS TO AN EMPLOYEE BENEFIT PLAN WERE DUE; OR MATERIAL, OR EQUIPMENT WAS FURNISHED:

7. PRINCIPAL AMOUNT FOR WHICH THE LIEN IS CLAIMED IS:

8. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO STATE HERE:

....., Claimant

.....
(Phone number, address, city, and state of claimant)

STATE OF WASHINGTON, COUNTY OF

....., ss.

....., being sworn, says: I am the claimant (or attorney of the claimant, or administrator, representative, or agent of the trustees of an employee benefit plan) above named; I have read or heard and understand the foregoing claim, read and know the contents thereof, and believe the same to be true and correct and that the claim of lien is not frivolous and is made with reasonable cause, and is not clearly excessive under penalty of perjury.

Subscribed and sworn to before me this . . . day of

(3) The period provided for recording the claim of lien is a period of limitation and no action to foreclose a lien shall be maintained unless the claim of lien is filed for recording within the ninety-day period stated. The lien claimant shall give a copy of the claim of lien to the owner or reputed owner by mailing it by certified or registered mail or by personal service within fourteen days of the time the claim of lien is filed for recording. Failure to do so results in a forfeiture of any right the claimant may have to attorneys' fees and costs against the owner under RCW 60.04.181.

(4) A lien claimant that, for any reason, includes any interest, late fee, court cost, attorneys' fees, or similar charges as part of the principal amount for which the lien is claimed shall be deemed to have waived any right under contract or otherwise to such charges, and shall also forfeit any right the claimant may have to attorneys' fees and costs against the owner under RCW 60.04.181.

Sec. 5. RCW 60.04.250 and 1990 c 81 s 1 are each amended to read as follows:

The department of labor and industries shall prepare master documents that provide informational material about:

(1) Construction lien laws and available safeguards against real property lien claims. The material shall include methods of protection against lien claims, including obtaining lien release documents, performance bonds, joint payee checks, the opportunity to require contractor disclosure of all potential lien claimants as a condition of payment, and lender supervision under RCW 60.04.200 and 60.04.210. The material shall also include sources of further information, including the department of labor and industries and the office of the attorney general.

(2) The basics of lien law relating to owner-occupied residential improvements and new construction projects. Before any building permit may be issued for the construction of a new owner-occupied single-family residence or for the improvement to an owner-occupied single-family residence for an amount in excess of one thousand dollars, if the construction will involve the services of a prime contractor, the permit issuing agency shall not issue any permit until the homeowner has personally, and not through an agent, acknowledged receipt of the document. When the homeowner completes the document by making selections, as indicated in the document, and submits it to the agency, the permit issuing agency shall maintain a copy of the completed document in the file of the permit issuing agency relating to the homeowner's permit application. The document shall be in substantially the following form and shall also include information describing the scope and limits of state contractor bonding requirements, the provisions of this act, and the availability of further information, including the department of labor and industries and the office of the attorney general.

Dear Homeowner:

The construction work for which you are contracting can subject you to significant financial responsibilities that may be affected by the actions of others. For example, if your contractor fails to pay subcontractors, suppliers, or laborers or neglects to make

other legally required payments, those who are owed money can file a lien against your property for payment, even if you have paid your contractor in full. Anyone filing a valid lien claim may force the sale of your property to recover the unpaid amount. This is true if you have hired a contractor to build a new home or are buying a newly built home. It is also true when you remodel or improve your property.

People who supply materials or labor ordered by your contractor are permitted by law to file a lien only if they do so within ninety days of cessation of performance or delivery of materials. The time frame is spelled out in RCW 60.04.091.

If you enter into a contract to buy a newly built home, you may not receive a notice of a lien based on a claim by a contractor or material supplier. You should inquire of your lender and title insurer about title insurance coverage for liens that may arise from the construction of your home, but that are not recorded until after you take possession of your home. Be aware that a lien may be claimed even though you have not received a notice. Before making final payment on the project, obtain a completed lien release form from each contractor and material supplier. A sample of this release of lien form is available from the department of labor and industries, contractor registration section.

You have final responsibility for seeing that all bills are paid even if you have paid your contractor in full.

If you are dealing with a lending institution, ask your loan officer what precautions the lending institution takes to verify that subcontractors and material suppliers are being paid when mortgage money is paid to your contractor. You may want to request lender supervision if your lending institution is providing interim or construction financing.

If you receive a notice to enforce a lien, take the notice seriously. Let your contractor know you have received the notice. Find out what arrangements are being made to pay the sender of the notice.

When in doubt, or if you need more details, consult your attorney. When and how to pay your contractor is a decision that requires serious consideration. Washington law, RCW 18.27.114, requires contractors to give you this disclosure statement if your contract exceeds one thousand dollars.

(NOTE: A lien claimant must, under RCW 60.04.091, mail by certified or registered mail or by personal service a copy of the claim of lien to the owner within fourteen days of the time the lien is recorded. While an action is ongoing, the law, RCW 60.04.151, allows an owner to withhold from this prime residential contractor the amount of money for which a claim is recorded by a subcontractor, supplier, or laborer.)

More information about contractors is available by visiting the department of labor and industries on the Internet at www.LNI.wa.gov/SCS/contractors/ or by calling the contractor registration hotline at 1-800-647-0982. You may also call your local department of labor and industries office. See listings under "Washington state of" in the government section or the white pages of the telephone book.

Signed by (property owner):

Date signed:

Sec. 6. RCW 18.27.020 and 1997 c 314 s 3 are each amended to read as follows:

(1) Every contractor shall register with the department.

(2) It is a gross misdemeanor for any contractor to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended or revoked;

(c) Use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required; or

(d) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(3) It is not unlawful for a general contractor to employ an unregistered contractor who was registered at the time he or she entered into a contract with the general contractor, unless the general contractor or his or her representative has been notified in writing by the department of labor and industries that the contractor has become unregistered.

(4) All ((misdemeanor)) actions under this chapter shall be prosecuted in the county where the infraction occurs.

(5) A person is guilty of a separate gross misdemeanor for each day worked if, after the person receives a citation from the department, the person works while unregistered, or while his or her registration is suspended or revoked, or works under a registration issued to another contractor. A person is guilty of a separate gross misdemeanor for each worksite on which he or she violates subsection (2) of this section. Nothing in this subsection applies to a registered contractor.

(6) The director by rule shall establish a two-year audit and monitoring program for a contractor not registered under this chapter who becomes registered after receiving an infraction or conviction under this chapter as an unregistered contractor. The director shall notify the departments of revenue and employment security of the infractions or convictions and shall cooperate with these departments to determine whether any taxes or registration, license, or other fees or penalties are owed the state.

Sec. 7. RCW 18.27.040 and 2001 c 159 s 3 are each amended to read as follows:

(1) Each applicant shall file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in the sum of twelve thousand dollars if the applicant is a general contractor and six thousand dollars if the applicant is a specialty contractor. If no valid bond is already on file with the department at the time the application is filed, a bond must accompany the registration application. The bond shall have the state of Washington named as obligee with good and sufficient surety in a form to be approved by the department. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director. A cancellation or revocation of the bond or withdrawal of the surety from the bond automatically suspends the registration issued to the registrant until a new bond or reinstatement notice has been filed and approved as provided in this section. The bond shall be conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing labor or material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of breach of contract including negligent or improper work in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) At the time of initial registration or renewal, the contractor shall provide a bond or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall issue or renew the contractor's certificate of registration. Any contractor registered as of July 1, 2001, who maintains that registration in accordance with this chapter is in compliance with this chapter until the next renewal of the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit upon the bond or deposit in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon the bond or deposit brought by a residential homeowner for breach of contract by a party to the construction contract shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within two years from the date the claimed contract work was substantially completed or

abandoned. Action upon the bond or deposit brought by any other authorized party shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within one year from the date the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was substantially completed or abandoned. Service of process in an action against the contractor, the contractor's bond, or the deposit shall be exclusively by service upon the department. Three copies of the summons and complaint and a fee adopted by rule of not less than twenty dollars to cover the costs shall be served by registered or certified mail, or other delivery service requiring notice of receipt, upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the fee and three copies of the summons and complaint. The service shall constitute service on the registrant and the surety for suit upon the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the registrant at the address listed in the registrant's application and to the surety within two days after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The liability of the surety shall not cumulate where the bond has been renewed, continued, reinstated, reissued or otherwise extended. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

(a) Employee labor and claims of laborers, including employee benefits;

(b) Claims for breach of contract by a party to the construction contract;

(c) Registered or licensed subcontractors, material, and equipment;

(d) Taxes and contributions due the state of Washington;

(e) Any court costs, interest, and ((attorney's [attorneys'])) attorneys' fees plaintiff may be entitled to recover. The surety is not liable for any amount in excess of the penal limit of its bond.

A payment made by the surety in good faith exonerates the bond to the extent of any payment made by the surety.

(5) The total amount paid from a bond or deposit required of a general contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount. The total amount paid from a bond or deposit required of a specialty contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount or four thousand dollars, whichever is greater.

(6) The prevailing party in an action filed under this section against the contractor and contractor's bond or deposit, for breach of contract by a party to a construction contract, is entitled to costs, interest, and reasonable attorneys' fees. The surety upon the bond is not liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction.

(7) If a final judgment impairs the liability of the surety upon the bond so furnished that there is not in effect a bond in the full amount prescribed in this section, the registration of the contractor is automatically suspended until the bond liability in the required amount unimpaired by unsatisfied judgment claims is furnished.

(8) In lieu of the surety bond required by this section the contractor may file with the department a deposit consisting of cash or other security acceptable to the department.

(9) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final

judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(10) The director ((may)) shall require an applicant applying to renew or reinstate a registration or applying for a new registration to file a bond of ((up to three)) at least two times, but not more than five times the normally required amount, if the director determines that:

(a) An applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, has had in the past five years a total of six final judgments in actions under this chapter involving a residential single-family dwelling on two or more different structures; or

(b) The applicant engages in the new construction, repair, alteration, or remodel of the single-family residence or appurtenant garage of any residential homeowner, as defined in RCW 60.04.031(7), and the applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, or the employee with the greatest executive, management, physical, or actual control over the accounting or disbursement of funds received by the contractor from residential homeowners have been party to a filing instituted pursuant to section 3 of this act, where a claim against the party or parties has been jointly made by a residential homeowner and a potential lien claimant.

(11) The director may adopt rules necessary for the proper administration of the security.

NEW SECTION. Sec. 8.

This act takes effect July 1, 2006.
On page 1, line 2 of the title, after "homes;" strike the remainder of the title and insert "amending RCW 60.04.031, 60.04.021, 60.04.091, 60.04.250, 18.27.020, and 18.27.040; adding a new section to chapter 60.04 RCW; and providing an effective date."

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

Senator Fraser spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Parlette to .

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

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5773 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser, Hargrove and Kohl-Welles spoke in favor of passage of the bill.

Senators Stevens, Finkbeiner, Roach and Sheldon spoke against passage of the bill.

MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand.

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

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

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5773.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5773 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Delvin, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Thibaudreau and Weinstein - 28

Voting nay: Senators Benson, Benton, Brandland, Carrell, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Oke, Pflug, Schmidt, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 20

Excused: Senator Deccio - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5773, 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. 5510, by Senators Spanel and Kohl-Welles

Defining supervisor for public employment purposes.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.80.070 and 2002 c 354 s 308 are each amended to read as follows:

(1) A bargaining unit of employees covered by this chapter existing on June 13, 2002, shall be considered an appropriate unit, unless the unit does not meet the requirements of (a) and (b) of this subsection. The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modifications of existing units, the commission shall consider: The duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation. However, a unit is not appropriate if it includes:

(a) Both supervisors and nonsupervisory employees. A unit that includes only supervisors may be considered appropriate if a majority of the supervisory employees indicates by vote that they desire to be included in such a unit; or

(b) More than one institution of higher education. For the purposes of this section, any branch or regional campus of an institution of higher education is part of that institution of higher education.

(2) Notwithstanding subsection (1)(a) and (b) of this section, at an institution of higher education, members of supervisory classes may be combined in the same bargaining unit, regardless of whether the individual members of the bargaining unit may be actually serving as a supervisor at any given point in time, subject to established community of interest standards as applied by the public employment relations commission, and upon the condition that no member of the bargaining unit supervises another member

of the unit. The consolidation of employees as authorized by this subsection will be performed by the public employment relations commission under established unit determination procedures. For the purposes of this subsection, a supervisory class is one in which employees holding the classification may be assigned as a supervisor at the employer's discretion without a classification change.

(3) The exclusive bargaining representatives certified to represent the bargaining units existing on June 13, 2002, shall continue as the exclusive bargaining representative without the necessity of an election.

((7))) (4) If a single employee organization is the exclusive bargaining representative for two or more units, upon petition by the employee organization, the units may be consolidated into a single larger unit if the commission considers the larger unit to be appropriate. If consolidation is appropriate, the commission shall certify the employee organization as the exclusive bargaining representative of the new unit."

Senator Spanel 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 Spanel to Senate Bill No. 5010.

The motion by Senator Spanel 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 "purposes;" strike the remainder of the title and insert "and amending RCW 41.80.070."

MOTION

On motion of Senator Spanel, the rules were suspended, Engrossed Senate Bill No. 5510 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Spanel spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Fairley was excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5510.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5510 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudreau, Weinstein and Zarelli - 47

Excused: Senators Deccio and Fairley - 2

ENGROSSED SENATE BILL NO. 5510, 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. 5477, by Senators Kline, Brandland, Hargrove, Esser, Fairley, Kastama, Shin, Pridemore, Weinstein, Haugen, Berkey, Prentice and Rockefeller

Revising sentencing procedures for exceptional sentences.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to restore the ability to impose an aggravated sentence lost by the superior court as a result of the decision of the United States supreme court in *Blakely v. State of Washington*, 542 U.S. ... (2004). The legislature finds that as the seriousness level of the crime and the criminal history of the offender increase, the need for an individualized and informed assessment of the circumstances of the crime, the offender, and the victim, by the judiciary, is necessary for justice to be obtained. The legislature further finds that the exercise of the judiciary's sentencing discretion over a broader range based upon the assessment of these circumstances is consistent with the policies supporting Washington's sentencing reform act.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

(1) For offenders convicted of a violent offense, the upper limit of the standard sentencing range shall be advisory only. Notwithstanding any other provision of law, the maximum sentence that a court may impose for a violent offense is the maximum sentence for the current offense under chapter 9A.20 RCW, or twice the upper limit of the standard sentencing range, whichever is less. This provision shall not apply to any offender sentenced under RCW 9.94A.712 or section 7 of this act.

(2) In making its determination of the sentence length to be imposed, the court shall consider the risk assessment prepared by the department of corrections, the presentence report and other materials provided by the offender, and any information provided by the victim or victims of the crime.

(3) A sentence imposed under this section shall be a determinate sentence unless it is imposed on an offender sentenced under RCW 9.94A.712. The sentence may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

Sec. 3. RCW 9.94A.480 and 2002 c 290 s 16 are each amended to read as follows:

(1) A current, newly created or reworked judgment and sentence document for each felony sentencing shall record any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes kept as public records under RCW 9.94A.475 shall contain the clearly printed name and legal signature of the sentencing judge. The judgment and sentence document as defined in this section shall also provide additional space for the sentencing judge's reasons, if any, for going either above or below the presumptive or advisory sentence range for any and all felony crimes covered as public records under RCW 9.94A.475. Both the sentencing judge and the prosecuting attorney's office shall each retain or receive a completed copy of each sentencing document as defined in this section for their own records.

(2) The sentencing guidelines commission shall be sent a completed copy of the judgment and sentence document upon conviction for each felony sentencing under subsection (1) of this section and shall compile a yearly and cumulative judicial record of each sentencing judge in regards to his or her sentencing practices for any and all felony crimes involving:

- (a) Any violent offense as defined in this chapter;
- (b) Any most serious offense as defined in this chapter;

(c) Any felony with any deadly weapon special verdict under RCW 9.94A.602;

(d) Any felony with any deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both; and/or

(e) The felony crimes of possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony.

(3) The sentencing guidelines commission shall compare each individual judge's sentencing practices to the standard ((or)), presumptive, or advisory sentence range for any and all felony crimes listed in subsection (2) of this section for the appropriate offense level as defined in RCW 9.94A.515 or 9.94A.518, offender score as defined in RCW 9.94A.525, and any applicable deadly weapon enhancements as defined in RCW 9.94A.533 (3) or (4), or both. These comparative records shall be retained and made available to the public for review in a current, newly created or reworked official published document by the sentencing guidelines commission.

(4) Any and all felony sentences which are either above or below the standard ((or)), presumptive, or advisory sentence range in subsection (3) of this section shall also mark whether the prosecuting attorney in the case also recommended a similar sentence, if any, which was either above or below the standard, presumptive, or advisory sentence range and shall also indicate if the sentence was in conjunction with an approved alternative sentencing option including a first-time offender waiver, sex offender sentencing alternative, or other prescribed sentencing option.

(5) If any completed judgment and sentence document as defined in subsection (1) of this section is not sent to the sentencing guidelines commission as required in subsection (2) of this section, the sentencing guidelines commission shall have the authority and shall undertake reasonable and necessary steps to assure that all past, current, and future sentencing documents as defined in subsection (1) of this section are received by the sentencing guidelines commission.

Sec. 4. RCW 9.94A.505 and 2002 c 290 s 17, 2002 c 289 s 6, and 2002 c 175 s 6 are each reenacted and amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, the court shall impose a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

(iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

(iv) RCW 9.94A.545, relating to community custody for offenders whose term of confinement is one year or less;

(v) RCW 9.94A.570, relating to persistent offenders;

(vi) RCW 9.94A.540, relating to mandatory minimum terms;

(vii) RCW 9.94A.650, relating to the first-time offender waiver;

(viii) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(ix) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(x) RCW 9.94A.712, relating to certain sex offenses;

(xi) RCW 9.94A.535, relating to exceptional sentences;

(xii) RCW 9.94A.589, relating to consecutive and concurrent sentences;

(xiii) Section 2 of this act relating to violent offenses.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; until July 1, 2000, a term of community supervision not to exceed one year and on and after July 1, 2000, a term of community custody not to exceed one

year, subject to conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community supervision, community placement, or community custody which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.

(10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(11) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may, as part of any term of community supervision, community placement, or community custody, order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

Sec. 5. RCW 9.94A.530 and 2002 c 290 s 18 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see RCW 9.94A.510, (Table 1) and RCW 9.94A.517, (Table 3)). The additional time for deadly weapon findings or for ((those offenses enumerated)) other adjustments as specified in RCW 9.94A.533((4)) that were committed in a state correctional facility or county jail)) shall be added to the entire standard sentence range. The court may impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to section 7 of this act. Acknowledgement includes not objecting to information stated in the presentence reports. Where the defendant disputes material facts, the court

must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence, except as otherwise specified in section 7 of this act.

(3) In determining any sentence above the standard sentence range, the court shall follow the procedures set forth in section 7 of this act. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535(2) (d), (e), (g), and (h).

Sec. 6. RCW 9.94A.535 and 2003 c 267 s 4 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of section 7 of this act.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence ((unless it is imposed on an offender sentenced under RCW 9.94A.712. An exceptional sentence imposed on an offender sentenced under RCW 9.94A.712 shall be to a minimum term set by the court and a maximum term equal to the statutory maximum sentence for the offense of conviction under chapter 9A.20 RCW)).

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

((The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.))

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered By A Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in section 7 of this act.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance ((due to extreme youth, advanced age, disability, or ill health)).

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

((The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.))

((The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.))

((k))) The offense resulted in the pregnancy of a child victim of rape.

((((l))) (j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

((m))) (k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

((n))) (l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

NEW SECTION. Sec. 7. A new section is added to chapter 9.94A RCW to read as follows:

(1) At any time prior to trial or entry of the guilty plea if substantial rights of the defendant are not prejudiced, the state may give notice that it is seeking a sentence above the standard sentencing range. The notice shall state aggravating circumstances upon which the requested sentence will be based.

(2) The facts supporting aggravating circumstances shall be proved to a jury beyond a reasonable doubt. The jury's verdict on the aggravating factor must be unanimous, and by special interrogatory. If a jury is waived, proof shall be to the court beyond a reasonable doubt, unless the defendant stipulates to the aggravating facts.

(3) Evidence regarding any facts supporting aggravating circumstances under RCW 9.94A.535(3) (a) through (y), shall be presented to the jury during the trial of the alleged crime, unless the state alleges the aggravating circumstances listed in RCW 9.94A.535(3) (e)(iv), (h)(i), (o), or (t). If one of these aggravating circumstances is alleged, the trial court may conduct a separate proceeding if the evidence supporting the aggravating fact is not part of the res geste of the charged crime, if the evidence is not otherwise admissible in trial of the charged crime, and if the court finds that the probative value of the evidence to the aggravated fact is substantially outweighed by its prejudicial effect on the jury's ability to determine guilt or innocence for the underlying crime.

(4) If the court conducts a separate proceeding to determine the existence of aggravating circumstances, the proceeding shall immediately follow the trial on the underlying conviction, if possible. If any person who served on the jury is unable to continue, the court shall substitute an alternate juror.

(5) If the jury finds, unanimously and beyond a reasonable doubt, one or more of the facts alleged by the state in support of an aggravated sentence, the court may sentence the offender pursuant to RCW 9.94A.535 to a term of confinement up to the maximum allowed under RCW 9A.20.021 for the underlying conviction if it finds, considering the purposes of this chapter, that the facts found are substantial and compelling reasons justifying an exceptional sentence.

NEW SECTION. Sec. 8. 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. 9. 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."

On page 1, line 1 of the title, after "range;" strike the remainder of the title and insert "amending RCW 9.94A.480, 9.94A.530, and 9.94A.535; reenacting and amending RCW 9.94A.505; adding new sections to chapter 9.94A RCW; creating a new section; and declaring an emergency."

WITHDRAWAL OF AMENDMENT

On motion of Senator Kline the amendment to Senate Bill No. 5477 was withdrawn.

MOTION

On motion of Senator Kline, the rules were suspended, Senate Bill No. 5477 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Johnson 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. 5477.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5477 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Deccio - 1

SENATE BILL NO. 5477, 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. 5952, by Senators Jacobsen, Hewitt, Rasmussen and Kohl-Welles

Exempting transport of persons at horse races from licensing.

MOTION

On motion of Senator Jacobsen, Substitute Senate Bill No. 5952 was substituted for Senate Bill No. 5952 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 3, line 4, after "end," strike "and"

On page 3, line 6, after "day" insert ", and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old"

Senators Jacobsen and Hewitt 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 Jacobsen on page 3, line 4 to Substitute Senate Bill No. 5952.

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

MOTION

On motion of Senator Jacobsen, the rules were suspended, Engrossed Substitute Senate Bill No. 5952 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen 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. 5952.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5952 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland,

Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Deccio - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5952, 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. 5953, by Senators Jacobsen, Deccio, Keiser, Rasmussen and Kohl-Welles

Authorizing horse racing handicapping contests. Revised for 1st Substitute: Authorizing class 1 racing associations to conduct handicapping contests.

MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 5953 was substituted for Senate Bill No. 5953 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 5953 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen spoke in favor of passage of the bill.

PARLIAMENTARY INQUIRY

Senator Fairley: "I have to ask if bill expands gambling? If so does it take a 60% vote?"

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5953 was deferred and the bill held its place on the third reading calendar.

SECOND READING

SENATE BILL NO. 5432, by Senators Spanel, Swecker, Poulsen, Doumit, Regala, Rockefeller, Pridemore, Haugen, Kohl-Welles, Fraser, Jacobsen, Shin and Kline

Creating the oil spill monitoring and oversight council. Revised for 1st Substitute: Creating the citizens' oil spill advisory council.

MOTION

On motion of Senator Poulsen, 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.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.56.005 and 2004 c 226 s 2 are each amended to read as follows:

(1) The legislature declares that ((the increasing reliance on)) water borne transportation as a source of supply for oil and hazardous substances poses special concern for the state of Washington. Each year billions of gallons of crude oil and refined petroleum products are transported as cargo and fuel by vessels on the navigable waters of the state. These shipments are expected to increase in the coming years. Vessels transporting oil into Washington travel on some of the most ((unique)) valuable and special marine environments in the United States. These marine environments are a source of natural beauty, recreation, and economic livelihood for many residents of this state. As a result, the state has an obligation to ensure the citizens of the state that the waters of the state will be protected from oil spills.

(2) The legislature finds that prevention is the best method to protect the ((unique)) valuable and special marine environments in this state. The technology for containing and cleaning up a spill of oil or hazardous substances is ((in the early stages of development)) at best only partially effective. Preventing spills is more protective of the environment and more cost-effective when all the response and damage costs associated with responding to a spill are considered. Therefore, the legislature finds that the primary objective of the state is to ((adopt)) achieve a zero spills strategy to prevent any oil or hazardous substances from entering waters of the state.

(3) The legislature also finds that:

(a) Recent accidents in Washington, Alaska, southern California, Texas, Pennsylvania, and other parts of the nation have shown that the transportation, transfer, and storage of oil have caused significant damage to the marine environment;

(b) Even with the best efforts, it is nearly impossible to remove all oil that is spilled into the water, and average removal rates are only fourteen percent;

(c) Washington's navigable waters are treasured environmental and economic resources that the state cannot afford to place at undue risk from an oil spill; (and)

(d) The state has a fundamental responsibility, as the trustee of the state's natural resources and the protector of public health and the environment to prevent the spill of oil; and

(e) In section 5002 of the federal oil pollution act of 1990, the United States congress found that many people believed that complacency on the part of industry and government was one of the contributing factors to the Exxon Valdez spill and, further, that one method to combat this complacency is to involve local citizens in the monitoring and oversight of oil spill plans. Congress also found that a mechanism should be established that fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals. Moreover, congress concluded that, in addition to Alaska, a program of citizen monitoring and oversight should be established in other major crude oil terminals in the United States because recent oil spills indicate that the safe transportation of oil is a national problem.

(4) In order to establish a comprehensive prevention and response program to protect Washington's waters and natural resources from spills of oil, it is the purpose of this chapter:

(a) To establish state agency expertise in marine safety and to centralize state activities in spill prevention and response activities;

(b) To prevent spills of oil and to promote programs that reduce the risk of both catastrophic and small chronic spills;

(c) To ensure that responsible parties are liable, and have the resources and ability, to respond to spills and provide compensation for all costs and damages;

(d) To provide for state spill response and wildlife rescue planning and implementation;

(e) To support and complement the federal oil pollution act of 1990 and other federal law, especially those provisions relating to the national contingency plan for cleanup of oil spills and discharges, including provisions relating to the responsibilities of state agencies designated as natural resource trustees. The

legislature intends this chapter to be interpreted and implemented in a manner consistent with federal law;

(f) To provide broad powers of regulation to the department of ecology relating to spill prevention and response;

(g) To provide for an independent ((oversight board)) oil spill advisory council to review on an ongoing basis the adequacy of oil spill prevention, preparedness, and response activities in this state; and

(h) To provide an adequate funding source for state response and prevention programs.

Sec. 2. RCW 90.56.010 and 2000 c 69 s 15 are each amended to read as follows:

For purposes of this chapter, the following definitions shall apply unless the context indicates otherwise:

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

(2) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration (a) processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development, and (b) processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Board" means the pollution control hearings board.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(6) "Committee" means the preassessment screening committee established under RCW 90.48.368.

(7) "Council" means the oil spill advisory council created in section 3 of this act.

(8) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

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

((9))) (10) "Director" means the director of the department of ecology.

((10))) (11) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

((11))) (12)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

((12))) (13) "Fund" means the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

((13))) (14) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

((14))) (15) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

((15))) (16) "Marine waters" means the area within the state boundaries that includes Hood Canal, Puget Sound, the Strait of Juan de Fuca, the Pacific Ocean, and the Columbia river estuary.

(17) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

((16))) (18) "Necessary expenses" means the expenses incurred by the department and assisting state agencies for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; (c) conducting actions necessary to clean up the discharge; (d) conducting predamage and damage assessment studies; and (e) enforcing the provisions of this chapter and collecting for damages caused by a discharge.

((17))) (19) "Oil" or "oils" means naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

((18))) (20) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

((19))) (21) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

((20))) (22)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

((21))) (23) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

((22))) (24) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

((23))) (25) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

((24))) (26) "Spill" means an unauthorized discharge of oil or hazardous substances into the waters of the state.

((25))) (27) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

((26))) (28) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

((27)) (29) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

NEW SECTION. Sec. 3. A new section is added to chapter 90.56 RCW to read as follows:

(1)(a) There is established in the office of the governor the oil spill advisory council.

(b) The primary purpose of the council is to maintain the state's vigilance in, by ensuring an emphasis on, the prevention of oil spills to marine waters, while recognizing the importance of also improving preparedness and response.

(c) The council shall be an advisory body only.

(2)(a) The council is composed of fifteen members representing various interests as follows:

(i) Three representatives of environmental organizations;

(ii) One representative of commercial shellfish interests;

(iii) One representative of commercial fisheries that primarily fishes in Washington waters;

(iv) One representative of marine recreation;

(v) One representative of tourism interests;

(vi) Three representatives of county government from counties bordering Puget Sound, the Columbia river/Pacific Ocean, and the Strait of Juan de Fuca/San Juan Islands;

(vii) Two representatives of marine trade interests;

(viii) One representative of major oil facilities;

(ix) One representative of public ports; and

(x) An individual who resides on a shoreline who has an interest, experience, and familiarity in the protection of water quality.

(b) In addition to the members identified in this subsection, the governor shall invite the participation of tribal governments through the appointment of two representatives to the council.

(3) Appointments to the council shall reflect a geographical balance and the diversity of populations within the areas potentially affected by oil spills to state waters.

(4) Members shall be appointed by the governor and shall serve four-year terms, except the initial members appointed to the council. Initial members to the council shall be appointed as follows: Six shall serve two-year terms, six shall serve three-year terms, and five shall serve four-year terms. Vacancies shall be filled by appointment in the same manner as the original appointment for the remainder of the unexpired term of the position vacated. Members serve at the pleasure of the governor.

(5) The council shall elect a chair from among its members in odd-numbered years to serve for two years as chair. The chair shall convene the council at least four times per year. At least one meeting per year shall be held in a Columbia river community, an ocean coastal community, and a Puget Sound community.

(6) Members shall not be compensated, but shall be reimbursed for travel expenses while attending meetings of the council or technical advisory committee as provided in RCW 43.03.050 and 43.03.060.

(7) The first meeting of the council shall be convened by the governor or the governor's designee. Other meetings may be convened by a vote of at least a majority of the voting members of the council, or by call of the chair. All meetings are subject to the open public meetings act. The council shall maintain minutes of all meetings.

(8) To the extent possible, all decisions of the council shall be by the consensus of the members. If consensus is not possible, nine voting members of the council may call for a vote on a matter. When a vote is called, all decisions shall be determined by a majority vote of the voting members present. Two-thirds of the voting members are required to be present for a quorum for all votes. The subject matter of all votes and the vote tallies shall be recorded in the minutes of the council.

(9) The council may form subcommittees and technical advisory committees.

NEW SECTION. Sec. 4. A new section is added to chapter 90.56 RCW to read as follows:

(1) The duties of the council include:

(a) Selection and hiring of professional staff and expert consultants to support the work of the council;

(b) Early consultation with government decision makers in relation to the state's oil spill prevention, preparedness, and response programs, analyses, rule making, and related oil spill activities;

(c) Providing independent advice, expertise, research, monitoring, and assessment for review of and necessary improvements to the state's oil spill prevention, preparedness, and response programs, analyses, rule making, and other decisions, including those of the Northwest area committee, as well as the adequacy of funding for these programs;

(d) Monitoring and providing information to the public as well as state and federal agencies regarding state of the art oil spill prevention, preparedness, and response programs;

(e) Actively seeking public comments on and proposals for specific measures to improve the state's oil spill prevention, preparedness, and response program, including measures to improve the effectiveness of the Northwest area committee;

(f) Evaluating incident response reports and making recommendations to the department regarding improvements;

(g) Consulting with the department on lessons learned and agency progress on necessary actions in response to lessons learned;

(h) Promoting opportunities for the public to become involved in oil spill response activities and provide assistance to community groups with an interest in oil spill prevention and response, and coordinating with the department on the development and implementation of a citizens' involvement plan;

(i) Serving as an advisory body to the department on matters relating to international, national, and regional issues concerning oil spill prevention, preparedness, and response, and providing a mechanism for stakeholder and public consideration of federal actions relating to oil spill preparedness, prevention, and response in or near the waters of the state with recommended changes or improvements in federal policies on these matters;

(j) Accepting moneys from appropriations, gifts, grants, or donations for the purposes of this section; and

(k) Any other activities necessary to maintain the state's vigilance in preventing oil spills.

(2) The council is not intended to address issues related to spills involving hazardous substances.

(3) By December 15, 2005, the council shall recommend to the governor and appropriate committees of the legislature, proposals for the long-term funding of the council's activities and for the long-term sustainable funding for oil spill preparedness, prevention, and response activities.

(4) By September 1st of each year, the council shall make recommendations for the continuing improvement of the state's oil spill prevention, preparedness, and response activities through a report to the governor and the appropriate committees of the senate and house of representatives.

Sec. 5. RCW 90.56.060 and 2004 c 226 s 4 are each amended to read as follows:

(1) The department shall prepare and annually update a statewide master oil and hazardous substance spill prevention and contingency plan. In preparing the plan, the department shall consult with an advisory committee representing diverse interests concerned with oil and hazardous substance spills, including the United States coast guard, the federal environmental protection agency, state agencies, local governments, port districts, private facilities, environmental organizations, oil companies, shipping companies, containment and cleanup contractors, tow companies, ((and)) hazardous substance manufacturers, and the oil spill advisory council.

(2) The state master plan prepared under this section shall at a minimum:

(a) Take into consideration the elements of oil spill prevention and contingency plans approved or submitted for approval pursuant to this chapter and chapter 88.46 RCW and oil and hazardous substance spill contingency plans prepared pursuant to

other state or federal law or prepared by federal agencies and regional entities;

(b) State the respective responsibilities as established by relevant statutes and rules of each of the following in the prevention of and the assessment, containment, and cleanup of a worst case spill of oil or hazardous substances into the environment of the state: (i) State agencies; (ii) local governments; (iii) appropriate federal agencies; (iv) facility operators; (v) property owners whose land or other property may be affected by the oil or hazardous substance spill; and (vi) other parties identified by the department as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance spill;

(c) State the respective responsibilities of the parties identified in (b) of this subsection in an emergency response;

(d) Identify actions necessary to reduce the likelihood of spills of oil and hazardous substances;

(e) Identify and obtain mapping of environmentally sensitive areas at particular risk to oil and hazardous substance spills;

(f) Establish an incident command system for responding to oil and hazardous substances spills; and

(g) Establish a process for immediately notifying affected tribes of any oil spill.

(3) In preparing and updating the state master plan, the department shall:

(a) Consult with federal, provincial, municipal, and community officials, other state agencies, the state of Oregon, and with representatives of affected regional organizations;

(b) Submit the draft plan to the public for review and comment;

(c) Submit to the appropriate standing committees of the legislature for review, not later than November 1st of each year, the plan and any annual revision of the plan; and

(d) Require or schedule unannounced oil spill drills as required by RCW 90.56.260 to test the sufficiency of oil spill contingency plans approved under RCW 90.56.210.

NEW SECTION. Sec. 6. A new section is added to chapter 90.56 RCW to read as follows:

The oil spill advisory council account is created in the custody of the state treasurer. All receipts from appropriations or gifts, grants, or donations from public or private sources shall be deposited into the fund. Expenditures from the fund may be used only for the purposes of this act. Only the oil spill advisory council may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures."

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

Senator Morton spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Spanel to Substitute Senate Bill No. 5432.

The motion by Senator Spanel 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 1 of the title, after "Relating to" strike the remainder of the title and insert "the oil spill advisory council; amending RCW 90.56.005, 90.56.010, and 90.56.060; and adding new sections to chapter 90.56 RCW."

MOTION

On motion of Senator Spanel, the rules were suspended, Engrossed Substitute Senate Bill No. 5432 was advanced to third

reading, the second reading considered the third and the bill was placed on final passage.

Senator Spanel 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. 5432.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5432 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 17; Absent, 2; Excused, 1.

Voting yea: Senators Berkey, Brown, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 29

Voting nay: Senators Benson, Benton, Brandland, Carrell, Delvin, Hewitt, Honeyford, Johnson, Morton, Mulliken, Parlette, Roach, Schmidt, Schoesler, Sheldon, Swecker and Zarelli - 17

Absent: Senators McCaslin and Stevens - 2

Excused: Senator Deccio - 1

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

SECOND READING

SENATE BILL NO. 5058, by Senators Haugen, Swecker, Prentice, Jacobsen and Weinstein

Changing the payment date of motor vehicle fuel tax and special fuel tax when paying by electronic funds transfer. Revised for 1st Substitute: Modifying fuel tax payment requirements.

MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5058 was substituted for Senate Bill No. 5058 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5058 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

POINT OF INQUIRY

Senator Benton: "Senator, could you tell me, originally this bill would of changed it to a two week period and the agreed upon bill now before us changes it to how many das? Do you know?"

Senator Haugen: "It's the second month, it will be the 26th day of the following month."

Senator Benton: "The 26th day of the following month, ok."

Senator Haugen: "It was before it was the 10th day of the second month so it moves it back just two weeks."

Senator Benton: "Ok, thank you very much."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5058.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5058 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Berkey, Blandland, Brown, Carrell, Delvin, Doumit, Eide, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 42

Voting nay: Senators Benton, Esser, Johnson, Roach and Zarelli - 5

Excused: Senators Deccio and Stevens - 2

SUBSTITUTE SENATE BILL NO. 5058, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5034, by Senator Kastama

Making restrictions on campaign funding.

MOTION

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

Strike everything after the enacting clause and insert the following:

"PART I - FINDINGS AND INTENT

NEW SECTION. Sec. 1. The legislature finds that:

(1) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

(2) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.

(3) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: (a) Source of support or opposition to those candidates; and (b) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

(4) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

(5) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

(6) The state also has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17.640. Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

NEW SECTION. Sec. 2. Based upon the findings in section 1 of this act, this act is narrowly tailored to accomplish the following and is intended to:

(1) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(2) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(3) Reenact and amend the contribution limits in RCW 42.17.640 (6) and (14) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17.640 (6) and (14) in light of *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy;

(4) Authorize the commission to adopt rules to implement this act.

PART II - ELECTIONEERING COMMUNICATIONS

NEW SECTION. Sec. 3. (1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

(a) Name and address of the sponsor;

(b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication; and

(iii) Any other source information required or exempted by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, and 42.17.100 are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 and 42.17.103.

(5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

NEW SECTION. Sec. 4. (1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or declaration so stating at the time the sponsor is required to report the electioneering communication expense under section 3 of this act.

NEW SECTION. Sec. 5. (1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under section 3 of this act shall be certified as correct by the sponsor. If the sponsor is an individual using his or her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf.

PART III - AMENDMENTS TO AND REENACTMENT OF CURRENT LAWS

Sec. 6. RCW 42.17.020 and 2002 c 75 s 1 are each amended to read as follows:

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

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

((2)) (3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept

contributions or make expenditures on behalf of the candidate or public official.

((3)) (4) "Ballot proposition" means any "measure" as defined by RCW ((29.01.110)) 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

((4)) (5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

((5)) (6) "Bona fide political party" means:

(a) An organization that has filed a valid certificate of nomination with the secretary of state under chapter ((29.24)) 29A.20 RCW;

(b) The governing body of the state organization of a major political party, as defined in RCW ((29.01.090)) 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

((6)) (7) "Depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

((7)) (8) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

((8)) (9) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

((9)) (10) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

((10)) (11) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

((11)) (12) "Commission" means the agency established under RCW 42.17.350.

((12)) (13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

((13)) (14) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

((14)) (15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

((15)) (16) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

((16)) (17) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

((17)) (18) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public

office and any campaign in support of, or in opposition to, a ballot proposition.

((18)) (19) "Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.

((19)) (20) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

(a) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of five thousand dollars or more.

(21) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

(b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(c) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(i) Of primary interest to the general public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(h) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(i) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

((20)) (23) "Final report" means the report described as a final report in RCW 42.17.080(2).

((21)) (24) "General election" for the purposes of RCW 42.17.640 means the election that results in the election of a person to a state office. It does not include a primary.

((22)) (25) "Gift," is as defined in RCW 42.52.010.

((23)) (26) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.

((24)) (27) "Incumbent" means a person who is in present possession of an elected office.

(28) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

((25)) (29)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

((26)) (30) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

((27)) (31) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

((28)) (32) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

((29)) (33) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

((30)) (34) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

((31)) (35) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

((32)) (36) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

((33)) (37) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

((34)) (38) "Primary" for the purposes of RCW 42.17.640 means the procedure for nominating a candidate to state office under chapter ((29.18 or 29.21)) 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter ((29.18 or 29.21)) 29A.52 RCW.

((35)) (39) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

((36)) (40) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

((37)) (41) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW ((29.82.015)) 29A.56.120 and ending thirty days after the recall election.

((38)) (42) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

((39)) (43) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

((40)) (44) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

((41)) (45) "State official" means a person who holds a state office.

((42)) (46) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee,

"surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

((42)) (47) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.

Sec. 7. RCW 42.17.103 and 2001 c 54 s 1 are each amended to read as follows:

(1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or supporting or opposing the same ballot proposition that was the subject of the previous independent expenditure.

(3) The special report must include at least:

(a) The name and address of the person making the expenditure;

(b) The name and address of the person to whom the expenditure was made;

(c) A detailed description of the expenditure;

(d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;

(e) The amount of the expenditure;

(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition; and

(g) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, ((and)) 42.17.100, and section 3 of this act are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100.

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

Sec. 8. RCW 42.17.110 and 1975-'76 2nd ex.s. c 112 s 5 are each amended to read as follows:

(1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the

election campaign shall maintain open for public inspection during the campaign and for a period of no less than three years after the date of the applicable election, during normal business hours, documents and books of account which shall specify:

(a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;

(b) The exact nature and extent of the ((advertising)) services rendered; and

(c) The consideration and the manner of paying that consideration for such services.

(2) Each commercial advertiser which must comply with subsection (1) of this section shall deliver to the commission, upon its request, copies of such information as must be maintained open for public inspection pursuant to subsection (1) of this section.

Sec. 9. RCW 42.17.510 and 1995 c 397 s 19 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. ((The party with which a candidate files)) For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising ((for partisan office)).

(2) In addition to the materials required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization, and all electioneering communications, must include the following statement ((or)) as part of the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement undertaken as an independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication.

(3) The statements and listings of contributors required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter((, and

(d) Be clearly spoken on any broadcast advertisement)).

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the

full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

((5)) (7) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Sec. 10. RCW 42.17.530 and 1999 c 304 s 2 are each amended to read as follows:

(1) It is a violation of this chapter for a person to sponsor with actual malice:

(a) Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office. However, this subsection (1)(a) does not apply to statements made by a candidate or the candidate's agent about the candidate himself or herself;

(b) Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) Any violation of this section shall be proven by clear and convincing evidence.

Sec. 11. RCW 42.17.640 and 2001 c 208 s 1 are each reenacted and amended to read as follows:

(1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed ((five)) seven hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed one thousand four hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed ((five)) seven hundred dollars if for a

state legislative office or one thousand four hundred dollars if for a state office other than a state legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ((fifty)) seventy cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ((twenty-five)) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ((twenty-five)) thirty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, during a recall campaign that in the aggregate exceed (i) ((fifty)) seventy cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ((twenty-five)) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ((twenty-five)) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) For purposes of determining contribution limits under subsections (3) and (4) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(6) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ((five)) seven hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ((two)) three thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(7) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(8) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(9) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.

(10) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate

for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(11) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

(14) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.

Sec. 12. RCW 42.17.680 and 2002 c 156 s 1 are each amended to read as follows:

(1) No employer or labor organization may increase the salary of an officer or employee, or give an emolument to an officer, employee, or other person or entity, with the intention that the increase in salary, or the emolument, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. At least annually, an employee from whom wages or salary are withheld under subsection (3) of this section shall be notified of the provisions of this subsection.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.

((4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds

were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.)

PART IV - TECHNICAL PROVISIONS

NEW SECTION. **Sec. 13.** RCW 42.17.505 (Definitions) and 1988 c 199 s 1 are each repealed.

NEW SECTION. **Sec. 14.** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 15.** (1) Sections 1 through 5 of this act are each added to chapter 42.17 RCW to be codified with the subchapter heading of "Reporting of Electioneering Communications."

(2) The code reviser must change the subchapter heading "Political Advertising" to "Political Advertising and Electioneering Communications" in chapter 42.17 RCW.

NEW SECTION. **Sec. 16.** 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. 17.** This act takes effect January 1, 2006."

On page 1, line 2 of the title, after "funding;" strike the remainder of the title and insert "amending RCW 42.17.020, 42.17.103, 42.17.110, 42.17.510, 42.17.530, and 42.17.680; reenacting and amending RCW 42.17.640; adding new sections to chapter 42.17 RCW; creating a new section; repealing RCW 42.17.505; and providing an effective date."

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

POINT OF ORDER

Senator Roach: "I believe that the striking amendment before us exceeds the scope and object of the underline bill in violation of Senate Rule 66. Substitute Senate Bill No. 5034 defines "electioneering communications" as those made within sixty days of an election which clearly identified a candidate and have a fair market value of about 5,000 dollars or more. The bill requires that electioneering communications be reported electronically to the public disclosure commission within twenty-four hours of the communication being made public. The substitute also restores contribution limits and restrictions on the use of soft money. The striking amendment includes all of the provisions from the substitute but adds a critical new section. Section twelve has no connection to soft money contribution limits or to electioneering communications. Under current law, when an employer or other entity withholds wages he or she may not divert apportion of an employees wages for contributions to political committees or for use for political contributions except upon the written request of an employee. Section twelve of this striking amendment removes the statutory requirement for the entity withholding contributions to maintain the employees written request and other documents and to keep them open for public inspection for three years. This appears to have no connection to electioneering communications and I submit to you that the striking amendment exceeds the scope and object of Senate Bill No. 5034 and respectfully ask for a ruling thereon."

Senator Kastama spoke against the point of order.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5034 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SENATE BILL NO. 5461, by Senator Fairley

Changing limits on costs of incarceration charged to offenders.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Senate Bill No. 5461 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Brandland spoke in favor of passage of the bill.

MOTION

On motion of Senator Hewitt, Senator Zarelli was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5461.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5461 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Kastama, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 46

Excused: Senators Deccio, Stevens and Zarelli - 3

SENATE BILL NO. 5461, 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. 5782, by Senators Shin, Prentice, Franklin, Kline, Kohl-Welles and Berkey

Modifying provisions of the linked deposit program.

MOTIONS

On motion of Senator Shin, Second Substitute Senate Bill No. 5782 was substituted for Senate Bill No. 5782 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Shin, the rules were suspended, Second Substitute Senate Bill No. 5782 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5782.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5782 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 7; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 39

Voting nay: Senators Benton, Honeyford, Johnson, McCaslin, Morton, Mulliken and Oke - 7

Excused: Senators Deccio, Stevens and Zarelli - 3

SECOND SUBSTITUTE SENATE BILL NO. 5782, 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 point of order raised by Senator Fairley that Senate Bill 5953 is an expansion of gambling that requires a sixty percent vote under Article II, Section 24 of the Washington Constitution, the President finds and rules as follows:

By specifically allowing Class 1 racing associations to conduct horse race handicapping contests for a fee, this measure expands gambling for purposes of Article II, Section 24 of the Washington Constitution. As a result, Senator Fairley's point is well-taken and a sixty percent vote of this body will be needed for final passage.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5953 was deferred and the bill held its place on the third reading calendar.

SECOND READING

SENATE BILL NO. 5140, by Senators Berkey, Kastama and Kohl-Welles

Modifying the disposal of surplus funds of candidates or political committees.

MOTION

On motion of Senator Berkey, Substitute Senate Bill No. 5140 was substituted for Senate Bill No. 5140 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 2, line 6, after "to" insert "a public school, school district, or educational service district, or to"

Senator McCaslin 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 McCaslin on page 2, line 6 to Substitute Senate Bill No. 5140.

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

MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute Senate Bill No. 5140 was advanced to third

reading, the second reading considered the third and the bill was placed on final passage.

Senators Berkey, Roach and Shin 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. 5140.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5140 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Deccio and Stevens - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5140, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

There being no objection, the Senate resumed consideration of Substitute Senate Bill No. 5953.

Senators Jacobsen and Hewitt spoke in favor of passage of the bill.

Senator Fairley spoke against passage of the bill.

MOTION

On motion of Senator Mulliken, Senator McCaslin was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5953.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5953 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Pflug, Poulsen, Rasmussen, Regala, Roach, Schmidt, Schoesler, Sheldon, Shin, Spanel, Thibaudeau, Weinstein and Zarelli - 35

Voting nay: Senators Fairley, Fraser, Hargrove, Haugen, Mulliken, Oke, Parlette, Prentice, Pridemore, Rockefeller and Swecker - 11

Excused: Senators Deccio, McCaslin and Stevens - 3

SUBSTITUTE SENATE BILL NO. 5953, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5289, by Senators McAuliffe, Hargrove, Stevens, Regala, Mulliken and Benton

Disregarding from federal accountability reporting those

students receiving home-based instruction who participate in running start.

MOTIONS

On motion of Senator McAuliffe, Substitute Senate Bill No. 5289 was substituted for Senate Bill No. 5289 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Substitute Senate Bill No. 5289 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Hargrove and Schmidt spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5289.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5289 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Deccio, Kline, McCaslin and Stevens - 4

SUBSTITUTE SENATE BILL NO. 5289, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5285, by Senators Poulsen, Morton, Rockefeller, Honeyford, Kline, Mulliken and Oke

Updating the water quality joint development act to provide local government flexibility for improving drinking water and treatment services.

MOTION

On motion of Senator Poulsen, Substitute Senate Bill No. 5285 was substituted for Senate Bill No. 5285 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.150.040 and 1989 c 175 s 136 are each amended to read as follows:

The legislative authority of a public body may secure services by means of an agreement with a service provider. Such an agreement may obligate a service provider to perform one or more of the following services: Design, finance, construct, own,

operate, or maintain water pollution control facilities by which services are provided to the public body. Service agreements and related agreements under this chapter shall be entered into in accordance with the following procedure:

(1) The legislative authority of the public body shall publish notice that it is seeking to secure certain specified services by means of entering into an agreement with a service provider. The notice shall be published in the official newspaper of the public body, or if there is no official newspaper then in a newspaper in general circulation within the boundaries of the public body, at least once each week for two consecutive weeks. The final notice shall appear not less than ((sixty)) thirty days before the date for submission of proposals. The notice shall state (a) the nature of the services needed, (b) the location in the public body's offices where the requirements and standards for construction, operation, or maintenance of projects needed as part of the services are available for inspection, and (c) the final date for the submission of proposals. The legislative authority may undertake a prequalification process by the same procedure set forth in this subsection.

(2) The request for proposals shall (a) indicate the time and place responses are due, (b) include evaluation criteria to be considered in selecting a service provider, (c) specify minimum requirements or other limitations applying to selection, (d) insofar as practicable, set forth terms and provisions to be included in the service agreement, and (e) require the service provider to demonstrate in its proposal to the public body's satisfaction that ((a public body's annual costs will be lower under its proposal than they would be if the public body financed, constructed, owned, operated, and maintained facilities required for service)) it is in the public interest to enter into the service agreement and that the service agreement is financially sound and advantageous to the public body from the standpoint of annual costs, quality of services, experience of the provider, reduction of risk, and other factors.

(3) The criteria set forth in the request for proposals shall be those determined to be relevant by the legislative authority of the public body, which may include but shall not be limited to: The respondent's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability, and financial resources; cost of the service; nature of facility design proposed by respondents; system reliability; performance standards required for the facilities; compatibility with existing service facilities operated by the public body or other providers of service to the public body; project performance warranties; penalty and other enforcement provisions; environmental protection measures to be used; and allocation of project risks. The legislative authority ((shall)) may designate persons or entities within or outside the public body (a) to assist it in issuing the request for proposals to ensure that proposals will be responsive to its needs, and (b) to assist it in evaluating the proposals received. ((The designee shall not be a member of the legislative authority.))

(4) After proposals under subsections (1) through (3) of this section have been received, the legislative authority((s)) or its designee shall determine, on the basis of its review of the proposals, whether one or more proposals have been received from respondents which are (a) determined to be qualified to provide the requested services, and (b) responsive to the notice and evaluation criteria, which shall include, but not be limited to, cost of services. These chosen respondents may, at the discretion of the public body, be aggregated into a short list of qualified respondents, who shall be referred to as the selected respondents in this section. The legislative authority or its designee shall conduct a bidder's conference to include all these selected respondents to assure a full understanding of the proposals. The bidder's conference shall ((also allow the designee to)) make these selected respondents aware of any changes in the request for proposal. Any information related to revisions in the request for proposal shall be made available to all these selected respondents. Any selected respondent shall be accorded a reasonable opportunity for revision of its proposal prior to commencement of

the negotiation provided in subsection (5) of this section, for the purpose of obtaining best and final proposals.

(5) After such conference is held, the legislative authority or its designee may negotiate with the selected respondent whose proposal it determines to be the most advantageous to the public body, considering the criteria set forth in the request for proposals. If negotiations are conducted by the designee, the legislative authority shall continue to oversee the negotiations and provide direction to its designee. If the negotiation is unsuccessful, the legislative authority may ((authorize the designee to)) commence negotiations with any other selected respondent. On completion of this process, ((the designee shall report to)) and after the department of ecology review and comments as provided for in subsection (9) of this section, and after public hearing as provided for in subsection (10) of this section, the legislative authority ((on his or her recommendations and the reasons for them)) may approve a contract with its chosen respondent.

(6) Any person aggrieved by the legislative authority's approval of a contract may appeal the determination to an appeals board selected by the public body, which shall consist of not less than three persons determined by the legislative authority to be qualified for such purposes. Such board shall promptly hear and determine whether the public body entered into the agreement in accordance with this chapter and other applicable law. ((The hearing shall be conducted in the same manner as an adjudicative proceeding under chapter 34.05 RCW.)) The board shall have the power only to affirm or void the agreement.

(7) Notwithstanding the foregoing, where contracting for design services by the public body is done separately from contracting for other services permitted under this chapter, the contracting for design ((of water pollution control facilities)) services shall be done in accordance with chapter 39.80 RCW.

(8) ((A)) If a public body elects to enter into an agreement whereby the service provider will own all or a portion of the water pollution control facilities it constructs, the service agreement shall include provision for an option by which a public body may acquire at fair market value facilities dedicated to such service.

(9) Before any service agreement is entered into by the public body, it shall be reviewed ((and approved)) by the department of ecology to ensure ((that)) consistency with the purposes of chapters 90.46 and 90.48 RCW ((are implemented)).

The department of ecology has thirty days from receipt of the proposed service agreement to complete its review and provide the public body with comments. A review under this section is not intended to replace any additional permitting or regulatory reviews and approvals that may be required under other applicable laws.

(10) Prior to entering into any service agreement under this chapter, the public body must have made written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the service agreement and that the service agreement is financially sound and advantageous compared to other methods.

(11) Each service agreement shall include project performance bonds or other security by the service provider which in the judgment of the public body is sufficient to secure adequate performance by the service provider.

Sec. 2. RCW 70.150.070 and 1986 c 244 s 7 are each amended to read as follows:

RCW 70.150.030 through 70.150.060 shall be deemed to provide an additional method for the provision of services from and in connection with facilities and shall be regarded as supplemental and additional to powers conferred by other state laws and by federal laws. A public body that is also eligible to enter into agreements with service providers under the alternative public works contracting procedures in chapter 39.10 RCW may elect to use either RCW 39.10.051 and 39.10.061 or this chapter as its method of procurement for such services.

Sec. 3. RCW 39.10.020 and 2003 c 352 s 1, 2003 c 301 s 2, and 2003 c 300 s 3 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alternative public works contracting procedure" means the design-build and the general contractor/construction manager contracting procedures authorized in RCW 39.10.051 and 39.10.061, respectively. Public bodies eligible to enter into agreements with service providers for the furnishing of services in connection with water pollution control facilities under the authority of chapter 70.150 RCW may elect to use either RCW 39.10.051 and 39.10.061 or chapter 70.150 RCW as their method of procurement for such services.

(2) "Public body" means the state department of general administration; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every port district with total revenues greater than fifteen million dollars per year; every public hospital district with total revenues greater than fifteen million dollars per year utilizing the design-build procedure authorized by RCW 39.10.051 and every public hospital district, regardless of total revenues, proposing projects that are considered and approved by the public hospital district project review board under RCW 39.10.117; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; those school districts proposing projects that are considered and approved by the school district project review board under RCW 39.10.115; and the state ferry system.

(3) "Public works project" means any work for a public body within the definition of the term public work in RCW 39.04.010.

(4) "Job order contract" means a contract between a public body or any school district and a registered or licensed contractor in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

(5) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

(6) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor. The prices may include: All the costs of materials; labor; equipment; overhead, including bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.

(7) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

Sec. 4. RCW 90.48.285 and 1987 c 109 s 144 are each amended to read as follows:

The department is authorized to enter into contracts with any municipal or public corporation or political subdivision within the state for the purpose of assisting such agencies to finance the design and construction of water pollution control projects, whether procured through chapter 39.10 or 70.150 RCW, or otherwise, that are necessary to prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the state, including but not limited to, systems for the control of storm or surface waters which will provide for the removal of waste or polluting materials in a manner conforming to the comprehensive plan of water pollution control and abatement proposed by the agencies and approved by the department. Any such contract may provide for:

The payment by the department to a municipal or public corporation or political subdivision on a monthly, quarterly, or annual basis of varying amounts of moneys as advances which shall be repayable by said municipal or public corporation, or political subdivision under conditions determined by the department.

Contracts made by the department shall be subject to the following limitations:

(1) No contract shall be made unless the department shall find that the project cannot be financed at reasonable cost or within statutory limitations by the borrower without the making of such contract.

(2) No contract shall be made with any public or municipal corporation or political subdivision to assist in the financing of any project located within a sewage drainage basin for which the department shall have previously adopted a comprehensive water pollution control and abatement plan unless the project is found by the department to conform with the basin comprehensive plan.

(3) The department shall determine the interest rate, not to exceed ten percent per annum, which such advances shall bear.

(4) The department shall provide such reasonable terms and conditions of repayment of advances as it may determine.

(5) The total outstanding amount which the department may at any time be obligated to pay under all outstanding contracts made pursuant to this section shall not exceed the moneys available for such payment.

(6) Municipal or public corporations or political subdivisions shall meet such qualifications and follow such procedures in applying for contract assistance as shall be established by the department.

In making such contracts the department shall give priority to projects which will provide relief from actual or potential public health hazards or water pollution conditions and which provide substantial capacity beyond present requirements to meet anticipated future demand.

Sec. 5. RCW 39.10.902 and 2003 c 301 s 8 and 2003 c 300 s 8 are each reenacted and amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2007:

- (1) RCW 39.10.010 and 1994 c 132 s 1;
- (2) RCW 39.10.020 and 2005 c ... s 3 (section 3 of this act), 2003 c 352 s 1, 2003 c 301 s 2, 2003 c 300 s 3, 2001 c 328 s 1, 2000 c 209 s 1, 1997 c 376 s 1, & 1994 c 132 s 2;
- (3) RCW 39.10.030 and 1997 c 376 s 2 & 1994 c 132 s 3;
- (4) RCW 39.10.040 and 1994 c 132 s 4;
- (5) RCW 39.10.051 and 2003 c 352 s 2, 2003 c 300 s 4, 2002 c 46 s 1, & 2001 c 328 s 2;
- (6) RCW 39.10.061 and 2003 c 352 s 3, 2003 c 300 s 5, 2002 c 46 s 2, & 2001 c 328 s 3;
- (7) RCW 39.10.065 and 1997 c 376 s 5;
- (8) RCW 39.10.067 and 2003 c 301 s 3, 2002 c 46 s 3, & 2000 c 209 s 3;
- (9) RCW 39.10.070 and 1994 c 132 s 7;
- (10) RCW 39.10.080 and 1994 c 132 s 8;
- (11) RCW 39.10.090 and 1994 c 132 s 9;
- (12) RCW 39.10.100 and 1994 c 132 s 10;
- (13) RCW 39.10.115 and 2001 c 328 s 4 & 2000 c 209 s 4;
- (14) RCW 39.10.900 and 1994 c 132 s 13;
- (15) RCW 39.10.901 and 1994 c 132 s 14;
- (16) RCW 39.10.068 and 2003 c 300 s 6;
- (17) RCW 39.10.117 and 2003 c 300 s 7; and
- (18) RCW 39.10.130 and 2003 c 301 s 1."

Senators Poulsen and Honeyford 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 Senators Poulsen and Honeyford to Substitute Senate Bill No. 5285.

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

MOTION

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

On page 1, line 2 of the title, after "flexibility" strike the remainder of the title and insert "; amending RCW 70.150.040, 70.150.070, and 90.48.285; and reenacting and amending RCW 39.10.020 and 39.10.902."

MOTION

On motion of Senator Poulsen, the rules were suspended, Engrossed Substitute Senate Bill No. 5285 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Poulsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5285.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5285 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Voting nay: Senators Fairley, Fraser and Spanel - 3

Excused: Senators Deccio, McCaslin and Stevens - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 5285, 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. 5160, by Senators Eide, Swecker, Berkey and Regala

Restricting use of wireless communications devices in moving motor vehicles.

The measure was read the second time.

MOTION

Senator Mulliken moved that the following amendment by Senators Mulliken and Eide be adopted.

On page 2, after line 25, insert the following:

"NEW SECTION. Sec. 3. For the first six months after the effective date of this act, law enforcement officers may only issue verbal warnings for violations of section 2 of this act."

Renumber the section following consecutively.

Senators Mulliken and Eide 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 Mulliken and Eide on page 2, after line 25 to Senate Bill No. 5160.

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

MOTION

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

In line 3 of the title, after "creating" strike "a new section" and insert "new sections"

MOTION

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

On page 2, after line 25, insert the following:

"(6) Infractions that result from the use of a wireless communication device while operating a motor vehicle under this section shall not become part of the drivers record under RCW 46.52.101 and 46.52.120. Additionally, a finding that a person has committed a traffic infraction under this section shall not be made available to insurance companies or employers."

Senators Mulliken and Eide 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 Mulliken on page 2, after line 25 to Senate Bill No. 5160.

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

MOTION

Senator Eide moved that the following amendment by Senators Eide and Mulliken be adopted.

On page 2, line 26, after "effect" strike "July 1, 2007" and insert "January 1, 2006"

Senators Eide and Mulliken 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 Eide and Mulliken on page 2, line 26 to Senate Bill No. 5160.

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

MOTION

On motion of Senator Eide, the rules were suspended, Engrossed Senate Bill No. 5160 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide, Oke, Rockefeller, Mulliken and Benson spoke in favor of passage of the bill.

Senators Zarelli, Sheldon, Roach Honeyford and Pflug spoke against passage of the bill.

PARLIAMENTARY INQUIRY

Senator Benton: "Since the passage of this bill would require citizens in the state of Washington to purchase an item that they normally would not purchase and because that purchase of that item is subject to sales and use tax and would generate additional revenue for the state of Washington. Would this measure under the provisions of 601 actually require a two-thirds vote and be considered a tax increase on the citizens of the state of Washington because it would force them to purchase an item that they normally would not otherwise purchase."

REPLY BY THE PRESIDENT

President Owen: "No."

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5160.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5160 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, Mulliken, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 28

Voting nay: Senators Benton, Brandland, Delvin, Doumit, Esser, Finkbeiner, Hargrove, Hewitt, Honeyford, Johnson, McAuliffe, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon and Zarelli - 18

Excused: Senators Deccio, McCaslin and Stevens - 3

ENGROSSED SENATE BILL NO. 5160, 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. 5168, by Senators Hargrove and Shin

Authorizing members of legislative bodies to serve as volunteer ambulance personnel.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Senate Bill No. 5168 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5168.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5168 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators Deccio, McCaslin and Stevens - 3

SENATE BILL NO. 5168, 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 point of inquiry raised by Senator Esser that Senate Bill 5069 takes a two-thirds vote on final passage under statutes enacted by Initiative Number 601 because it imposes a tax, the President finds and rules as follows: As with many I-601 issues, the question before us turns on the difference between a "tax" and a "fee." A "tax" raises revenue for general government purposes. By contrast, a "fee" is charged to a specific class of payors to provide for a specific service, program, or facility."

In this case, a program is created whereby two cents per hour, in the form of a premium, is charged each employee, and the funds collected are placed into a specific account. The proceeds from the account may be spent by the Director of the Department of Labor & Industries for family leave purposes.

It is worth noting that neither the terming of the funds collected nor their deposit into a specific account is controlling for this analysis. Instead, what is key to this determination is whether the funds are being collected from a specific group for a specific purpose relating to that same group. Here, only employees are paying into a program whereby only those same employees are eligible to take family leave for which they may be paid from funds collected under this program. It is true that participation is mandatory, and it is also true that not every employee may, at a given point in time, have family for which leave might be taken. Fees and taxes are both mandatory, so this point is not decisive. Likewise, while an employee's specific family circumstances may change, his or her eligibility does not; any employee who meets the criteria for family leave may take that leave.

Finally, the President notes that the funds raised under this program are not used for general government purposes, but only for the discrete family leave program established by the measure. For these reasons, the premium to be collected is properly characterized as a fee and not a tax. I-601's supermajority provisions are not triggered, and Senator Esser's point is not well-taken. Only a simple majority vote of this body is needed for final passage of this measure.

Senators Keiser, Oke, Franklin, Kohl-Welles and Thibaudeau spoke in favor of passage of the bill.

Senators Benson, Hewitt and Stevens spoke against passage of the bill.

MOTION

Senator Jacobsen demanded that the previous question be put.

The President declared that at least two additional senators joined the demand.

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

Senator Esser demanded a division.

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

The motion by Senator Jacobsen that the previous question be put was sustained by a rising voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5069.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5069 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 20; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Shin, Spanel, Thibaudeau and Weinstein - 27

Voting nay: Senators Benson, Brandland, Carrell, Delvin, Esser, Finkbeiner, Haugen, Hewitt, Honeyford, Johnson, Morton, Mulliken, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens,

Swecker and Zarelli - 20

Excused: Senators Deccio and McCaslin - 2

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5069, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Thibaudeau: "I misstated something, my husband was making \$8,000 a year and not \$8,000 a month. I just wanted you all to know that."

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Roach that striking amendment 351 is beyond the scope and object of the underlying bill, the President finds and rules as follows:

The substitute bill relates to electioneering communications. It defines electioneering communications, requires that payments made for such communications need to be reported electronically to the PDC, and makes such contributions subject to contribution limitations.

The striking amendment does all of these things that were in the original bill and the substitute, but it also adds an additional section, Section 12, which deletes subsection (4) of RCW 42.17.680. This subsection relates to maintaining permission records for employers or labor organizations which withhold wages for political contributions. Neither this subject nor even this RCW were covered by the substantive provisions of the bill. For these reasons, the amendment is beyond the scope and object of the bill and not properly before us. Senator Roach's point is well-taken.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5034 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SENATE BILL NO. 5385, by Senators Jacobsen, Oke, Fraser, Swecker and Kline

Creating the Washington invasive species council.

MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 5385 was substituted for Senate Bill No. 5385 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 5385 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Oke 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. 5385.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5385 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 1; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 38

Voting nay: Senators Carrell, Delvin, Hewitt, Johnson, Mulliken, Pflug, Schoesler and Stevens - 8

Absent: Senator Finkbeiner - 1

Excused: Senators Deccio and McCaslin - 2

SUBSTITUTE SENATE BILL NO. 5385, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

MOTION

On motion of Senator Mulliken, Senator Finkbeiner was excused.

SECOND READING

SENATE BILL NO. 5484, by Senators Fairley, Kline, Shin and Rasmussen

Monitoring and reporting on check cashers and sellers.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Senate Bill No. 5484 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Benson 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. 5484.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5484 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Deccio and McCaslin - 2

SENATE BILL NO. 5484, 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. 5535, by Senators Franklin, Brandland, Berkey, Spanel, Schoesler, Rockefeller, Delvin, Kohl-Welles, Oke and Shin

Modifying optometry licensing requirements.

MOTIONS

On motion of Senator Franklin, Substitute Senate Bill No. 5535 was substituted for Senate Bill No. 5535 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Franklin, the rules were suspended, Substitute Senate Bill No. 5535 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Franklin and Parlette 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. 5535.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5535 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 46

Voting nay: Senator Rasmussen - 1

Excused: Senators Deccio and McCaslin - 2

SUBSTITUTE SENATE BILL NO. 5535, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5663, by Senators Rasmussen, Schoesler, Doumit, Honeyford, Parlette, Jacobsen and Mulliken

Changing the tax exemptions for machinery and equipment used to reduce agricultural burning.

MOTIONS

On motion of Senator Rasmussen, Second Substitute Senate Bill No. 5663 was substituted for Senate Bill No. 5663 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Rasmussen, the rules were suspended, Second Substitute Senate Bill No. 5663 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rasmussen and Schoesler spoke in favor of passage of the bill.

MOTION

On motion of Senator Hewitt, Senator Zarelli was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5663.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5663 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland,

Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 46

Excused: Senators Deccio, McCaslin and Zarelli - 3

SECOND SUBSTITUTE SENATE BILL NO. 5663, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

MOTION

At 5:57 p.m., on motion of Senator Eide, the Senate was declared to be at recess until 7:00 p.m.

The Senate was called to order at 7:00 p.m. by President Owen.

MOTION

At 7:02 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 8:24 p.m. by President Owen.

SECOND READING

SENATE BILL NO. 5802, by Senators Kohl-Welles, Delvin, Shin, Spanel, Carrell, Fairley, Keiser, Roach, Jacobsen, Poulsen, Kline, Pridemore, McAuliffe, Weinstein, Eide, Berkey, Rasmussen and Rockefeller

Requiring pay equity for community and technical college part-time faculty.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5802 was substituted for Senate Bill No. 5802 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. 5802 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Carrell, Jacobsen, Spanel and Thibaudeau 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. 5802.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5802 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 45

Absent: Senator Benton - 1

Excused: Senators Deccio, McCaslin and Zarelli - 3

SUBSTITUTE SENATE BILL NO. 5802, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Delvin: "During that last piece of legislation I was talking to my great wife and I just wanted to know that I did support that bill a lot. Thank you."

SECOND READING

SENATE BILL NO. 5857, by Senators Prentice and Kohl-Welles

Authorizing a business and occupation tax deduction for certain nonprofit community health centers.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 5857 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Zarelli 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. 5857.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5857 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Absent: Senator Poulsen - 1

Excused: Senators Deccio and McCaslin - 2

SENATE BILL NO. 5857, 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. 5234, by Senators Jacobsen, Oke, Swecker, Doumit, Hargrove and Rasmussen

Expanding hunter access to certain private lands.

MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 5234 was substituted for Senate Bill No. 5234 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 5234 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen, Oke and Benson 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. 5234.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5234 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Voting nay: Senators Honeyford, Morton and Schoesler - 3

Excused: Senators Deccio and McCaslin - 2

SUBSTITUTE SENATE BILL NO. 5234, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

STATEMENT FOR THE JOURNAL

On March 15, 2005, I inadvertently voted in favor of Senate Bill No. 5234. I'd like to record my intent to vote no on the measure.

SENATOR JOYCE MULLIKEN, Legislative District No. 13

SECOND READING

SENATE BILL NO. 6078, by Senators Regala and Kohl-Welles

Controlling state expenditures.

MOTION

On motion of Senator Regala, Substitute Senate Bill No. 6078 was substituted for Senate Bill No. 6078 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 8, line 24, following "(1)", strike all material through "(2)" on line 28.

Senators Zarelli, Benton, Finkbeiner, Benson and Carrell spoke in favor of adoption of the amendment.

Senators Hargrove, Prentice, Brown and Jacobsen spoke against adoption of the amendment.

Senator Esser demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 8, line 24 to Substitute Senate Bill No. 6078.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Zarelli was not adopted by the following vote: Yeas, 22; Nays, 25; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Brandland, Carrell, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, Morton, Mulliken, Oke, Parlette, Pflug, Roach, Schmidt, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 22

Voting nay: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 25

Excused: Senators Deccio and McCaslin - 2

MOTION

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

On page 5, line 6, following "in" insert "eastern"

On page 6, line 26, following "the growth in" insert "eastern"

Senators Hewitt and Zarelli spoke in favor of adoption of the amendment.

Senator Regala spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hewitt on page 5, line 6 to Substitute Senate Bill No. 6078.

The motion by Senator Hewitt failed and the amendment was adopted by voice vote.

MOTION

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 6078 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Hargrove, Kohl-Welles, Brown, Shin and Prentice spoke in favor of passage of the bill.

Senators Zarelli, Schmidt, Swecker, Stevens, Benson, Carrell, Finkbeiner and Morton spoke against passage of the bill.

MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand.

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

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6078.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6078 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 21; Absent, 1; Excused, 2.

Voting yea: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 25

Voting nay: Senators Benson, Benton, Brandland, Carrell, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, Morton, Mulliken, Parlette, Pflug, Roach, Schmidt, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 21

Absent: Senator Oke - 1

Excused: Senators Deccio and McCaslin - 2

SUBSTITUTE SENATE BILL NO. 6078, 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 Substitute Senate Bill No. 6078, was immediately transmitted to the House of Representatives.

MOTION

At 10:02 p.m., on motion of Senator Eide, the Senate adjourned until 8:30 p.m. Wednesday, March 16, 2005.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate