

ONE HUNDRED THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, April 26, 2013

The Senate was called to order at 11:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Carrell.

The Sergeant at Arms Color Guard consisting of Pages Jonathan Gizinski and Eli Everson, presented the Colors. Ms. Lihu'e Ling offered the prayer, Pule Kakou (Prayer for Everyone). The Doxology (*Praise God from Whom All Blessings Flow*) in Olelo Hawai'i was performed by representatives of the state's Hawai'ian community.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

April 25, 2013

SB 5889 Prime Sponsor, Senator Nelson: Modifying snowmobile parking permit and license fees. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5889 be substituted therefor, and the substitute bill do pass. Signed by Senators Hill, Chair; Honeyford, Capital Budget Chair; Baumgartner, Vice Chair; Bailey; Becker; Conway; Dammeier; Fraser; Hargrove, Ranking Member; Hasegawa; Hatfield; Hewitt; Keiser; Kohl-Welles; Nelson, Assistant Ranking Member; Parlette; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Padden and Rivers.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Braun.

Passed to Committee on Rules for second reading.

April 25, 2013

SB 5914 Prime Sponsor, Senator Parlette: Concerning a waiver request to implement a premium assistance program to purchase market-based insurance for medicaid-eligible individuals. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5914 be substituted therefor, and the substitute bill do pass. Signed by Senators Hill, Chair; Honeyford, Capital Budget Chair; Baumgartner, Vice Chair; Bailey; Becker; Braun; Dammeier; Hewitt; Padden; Parlette; Rivers; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Conway; Fraser; Hargrove, Ranking Member;

Hasegawa; Hatfield; Keiser; Kohl-Welles; Nelson, Assistant Ranking Member.

Passed to Committee on Rules for second reading.

April 25, 2013

E2SHB 1306 Prime Sponsor, Committee on Finance: Extending the expiration dates of the local infrastructure financing tool program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Hill, Chair; Bailey; Becker; Braun; Conway; Dammeier; Fraser; Hargrove, Ranking Member; Hasegawa; Hatfield; Hewitt; Keiser; Kohl-Welles; Nelson, Assistant Ranking Member; Padden; Rivers; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

April 25, 2013

SHB 1982 Prime Sponsor, Committee on Appropriations: Eliminating lottery games that generate insufficient net revenue. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Hill, Chair; Honeyford, Capital Budget Chair; Baumgartner, Vice Chair; Bailey; Becker; Braun; Conway; Dammeier; Fraser; Hargrove, Ranking Member; Hasegawa; Hatfield; Hewitt; Keiser; Kohl-Welles; Nelson, Assistant Ranking Member; Padden; Parlette; Rivers; Schoesler and Tom.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES
GUBERNATORIAL APPOINTMENTS

April 26, 2013

SGA 9219 JOHN WIESMAN, appointed on April 15, 2013, for the term ending at the governors pleasure, as Secretary of the Department of Health. Reported by Committee on Health Care

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Becker, Chair; Dammeier, Vice Chair; Bailey; Cleveland; Keiser, Ranking Member; Parlette and Schlicher.

Passed to Committee on Rules for second reading.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS

April 23, 2013

TO THE HONORABLE, THE SENATE OF THE STATE OF
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

PETER W. BOGDANOFF, appointed January 16, 2013, for the term ending August 2, 2018, as Member of the Lottery Commission.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Commerce & Labor.

April 23, 2013

TO THE HONORABLE, THE SENATE OF THE STATE OF
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

PAUL P. GEORGE, reappointed March 20, 2013, for the term ending January 17, 2019, as Member of the Horse Racing Commission.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Commerce & Labor.

April 23, 2013

TO THE HONORABLE, THE SENATE OF THE STATE OF
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JOHN G. STEWART, appointed April 12, 2013, for the term ending December 26, 2016, as Member of the Board of Pilotage Commissioners.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Transportation.

April 23, 2013

TO THE HONORABLE, THE SENATE OF THE STATE OF
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

J. TAYLOE WASHBURN, appointed November 16, 2012, for the term ending September 30, 2017, as Member, Board of Trustees, Community College District No. 7 (Shoreline Community College).

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Higher Education.

April 23, 2013

TO THE HONORABLE, THE SENATE OF THE STATE OF
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

DEBORAH J. WILDS, appointed March 11, 2013, for the term ending January 12, 2017, as Member of the State Board of Education.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Higher Education.

MOTION

On motion of Senator Fain, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

April 25, 2013

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1130,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1552,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 25, 2013

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SECOND SUBSTITUTE HOUSE BILL NO. 1723,
SUBSTITUTE HOUSE BILL NO. 1821,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 25, 2013

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SENATE BILL NO. 5053,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5082,
ENGROSSED SENATE BILL NO. 5105,
SUBSTITUTE SENATE BILL NO. 5148,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5153,
ENGROSSED SECOND SUBSTITUTE SENATE BILL
NO. 5215,

SUBSTITUTE SENATE BILL NO. 5227,
SUBSTITUTE SENATE BILL NO. 5282,
SUBSTITUTE SENATE BILL NO. 5287,
ENGROSSED SENATE BILL NO. 5305,
SUBSTITUTE SENATE BILL NO. 5315,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5324,
SENATE BILL NO. 5337,

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SENATE BILL NO. 5344,
 SENATE BILL NO. 5417,
 SUBSTITUTE SENATE BILL NO. 5437,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5449,
 SUBSTITUTE SENATE BILL NO. 5459,
 SENATE BILL NO. 5465,
 SENATE BILL NO. 5472,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5480,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5491,
 and the same are herewith transmitted.

ENGROSSED SUBSTITUTE SENATE CONCURRENT
 RESOLUTION NO. 8401,
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 25, 2013

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 25, 2013

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5092,
 ENGROSSED SENATE BILL NO. 5099,
 SENATE BILL NO. 5102,
 ENGROSSED SENATE BILL NO. 5104,
 SENATE BILL NO. 5113,
 SUBSTITUTE SENATE BILL NO. 5135,
 SENATE BILL NO. 5136,
 SENATE BILL NO. 5145,
 ENGROSSED SENATE BILL NO. 5206,
 SENATE BILL NO. 5220,
 SUBSTITUTE SENATE BILL NO. 5256,
 SUBSTITUTE SENATE BILL NO. 5308,
 SUBSTITUTE SENATE BILL NO. 5369,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL
 NO. 5389,
 SUBSTITUTE SENATE BILL NO. 5399,
 SUBSTITUTE SENATE BILL NO. 5507,
 SENATE BILL NO. 5674,
 ENGROSSED SENATE BILL NO. 5699,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5723,
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 25, 2013

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5551,
 SUBSTITUTE SENATE BILL NO. 5556,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5577,
 SUBSTITUTE SENATE BILL NO. 5601,
 SUBSTITUTE SENATE BILL NO. 5615,
 ENGROSSED SENATE BILL NO. 5616,
 SUBSTITUTE SENATE BILL NO. 5630,
 SENATE BILL NO. 5692,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5709,
 SENATE BILL NO. 5748,
 SUBSTITUTE SENATE BILL NO. 5761,
 SUBSTITUTE SENATE BILL NO. 5767,
 SUBSTITUTE SENATE BILL NO. 5786,
 SENATE BILL NO. 5810,
 SENATE JOINT MEMORIAL NO. 8001,
 SENATE JOINT MEMORIAL NO. 8005,

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1242,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1245,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1412,
 SUBSTITUTE HOUSE BILL NO. 1466,
 SUBSTITUTE HOUSE BILL NO. 1612,
 SECOND SUBSTITUTE HOUSE BILL NO. 1764,
 HOUSE BILL NO. 1768,
 SUBSTITUTE HOUSE BILL NO. 1779,
 SUBSTITUTE HOUSE BILL NO. 1941,
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5925 by Senators Roach, Mullet, Keiser and
 Dammeier

AN ACT Relating to extending contribution limits to
 candidates for public hospital district boards of
 commissioners; amending RCW 42.17A.405 and
 42.17A.405; and providing contingent effective dates.

Referred to Committee on Governmental Operations.

SB 5926 by Senators Chase and Braun

AN ACT Relating to aerospace competitiveness; adding a
 new section to chapter 43.330 RCW; and creating a new
 section.

Referred to Committee on Trade & Economic Development.

SB 5927 by Senators Brown, Holmquist Newbry,
 Hewitt, Honeyford, Benton, Bailey, Padden, Braun, Smith and
 Rivers

AN ACT Relating to the right to engage in commerce free
 from discrimination; amending RCW 49.60.030; creating a
 new section; and providing an effective date.

Referred to Committee on Law & Justice.

SB 5928 by Senators Chase and Hasegawa

AN ACT Relating to the audit of the state universities;
 creating new sections; and providing an expiration date.

Referred to Committee on Higher Education.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2038 by House Committee on Finance (originally sponsored by Representatives Carlyle, Hunter, Ormsby, Tharinger, Reykdal and Pollet)

AN ACT Relating to investing in the education legacy trust account for K-12 basic education and higher education by narrowing or eliminating tax preferences and extending taxes set to expire; amending RCW 82.04.29002, 82.04.260, 82.08.0293, 82.12.0293, 82.08.0273, 82.04.4452, 82.63.030, 82.16.050, 82.04.610, 82.12.0263, 82.04.440, and 82.04.460; reenacting and amending RCW 82.04.260; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 82.16 RCW; adding a new section to chapter 82.32 RCW; adding a new section to chapter 43.135 RCW; adding a new section to chapter 39.42 RCW; repealing RCW 82.04.272; prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2042 by Representatives Cody, Hunter and Sullivan

AN ACT Relating to modifying the nursing facility medicaid payment system by delaying the rebase of certain rate components and extending certain rate add-ons; amending RCW 74.46.431 and 74.46.501; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2044 by Representatives Hunter and Sullivan

AN ACT Relating to delaying the implementation of the family leave insurance program until funding and payment of benefits are authorized in law; and amending RCW 49.86.030 and 49.86.210.

Referred to Committee on Ways & Means.

HB 2045 by Representatives Hunter and Sullivan

AN ACT Relating to payments to counties in lieu of taxes; and amending RCW 77.12.201 and 77.12.203.

Referred to Committee on Ways & Means.

MOTION

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

MOTION

On motion of Senator Fain, Senator Carrell was excused.

MOTION

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

MOTION

Senator Dammeier moved adoption of the following resolution:

SENATE RESOLUTION
8658

By Senators Dammeier, Conway, Becker, Darneille, Schlicher, Eide, and Roach

WHEREAS, Forrest Westering, better known as "Frosty," was an honored football coach and motivational speaker; and

WHEREAS, He began his career at Parsons College in 1962, moved to Albert Lea in 1966, and commenced his legendary run at Pacific Lutheran University in 1972, where he remained until he retired and handed the team over to his son Scott in 2003; and

WHEREAS, He led Pacific Lutheran University to four national titles, three NAIA titles, and one NCAA Division III title; and

WHEREAS, Frosty had a career mark of 305-96-7 and holds the National Association of Intercollegiate Athletics record for most coaching wins; and

WHEREAS, Despite ranking number 10 in wins among all college football coaches, Frosty spent his time – both on and off the football field – encouraging others to have a positive outlook on life; and

WHEREAS, He had a great sense of humor and adored when his players pulled pranks on him; and

WHEREAS, He always insisted his players call him Frosty - and corrected them if they used "Coach"; and

WHEREAS, He and his players sang before and after each game - often to the mock direction of Frosty's cane. He taught them to sing without embarrassment, for it had become uncool to refrain from the refrains; and

WHEREAS, Frosty's meetings rarely started on time, and he was so rooted in the habit of always being late, that his wife gave him an "ish" clock with the suffix "ish" beside each number; and

WHEREAS, He was only known to be on time while he was a drill instructor in the United States Marine Corps where he served immediately following World War II; and

WHEREAS, He was well known for his motivational speaking and his popular books "Make the Big Time Where You Are" and its sequel "The Strange Secret of the Big Time"; and

WHEREAS, Off the field, Frosty was a devoted husband to his wife Donna, his grade-school sweetheart, and their five children; and

WHEREAS, He made a lasting impact on the lives of his family and friends, as well as on the lives of his players and those he met along the way;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor and cherish the life, work, and fun-loving attitude of Forrest 'Frosty' Westering.

Senators Dammeier, Schlicher, Conway, Pearson, Ericksen and Schoesler spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8658.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Westering family members: Mrs. Donna Belle Westering; son Scott and his three children; daughter Holly and husband, Jim Johnson, and their children Chad & Michelle Johnson and their children, Jason and

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Christy and Heather & Chris Linderman and their children who were present in the gallery.

Larry Carpenter, Gubernatorial Appointment No. 9086, having received the constitutional majority was declared confirmed as a member of the Fish and Wildlife Commission.

REMARKS BY SCOTT WESTERING

Mr. Westering (from the gallery): "Well, I'll speak like my father did for a moment. The State of Washington has the Space Needle, Mount Rainier and now, humbly, also I think, Frosty and Donna Westering as national treasurers in the State of Washington. Thank you for honoring us."

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

- SUBSTITUTE HOUSE BILL NO. 1242,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1245,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1412,
- SUBSTITUTE HOUSE BILL NO. 1466,
- SUBSTITUTE HOUSE BILL NO. 1612,
- SECOND SUBSTITUTE HOUSE BILL NO. 1764,
- HOUSE BILL NO. 1768,
- SUBSTITUTE HOUSE BILL NO. 1779,
- SUBSTITUTE HOUSE BILL NO. 1941.

MOTION

On motion of Senator Billig, Senator Nelson was excused.

MOTION

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

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pearson moved that Larry Carpenter, Gubernatorial Appointment No. 9086, be confirmed as a member of the Fish and Wildlife Commission.

Senator Pearson spoke in favor of the motion.

APPOINTMENT OF LARRY CARPENTER

The President declared the question before the Senate to be the confirmation of Larry Carpenter, Gubernatorial Appointment No. 9086, as a member of the Fish and Wildlife Commission.

The Secretary called the roll on the confirmation of Larry Carpenter, Gubernatorial Appointment No. 9086, as a member of the Fish and Wildlife Commission and the appointment was confirmed by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Hargrove, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Kline, Litzow, Mullet, Padden, Parlette, Pearson, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Smith and Tom

Voting nay: Senators Chase, Fraser, Frockt, Harper, Hasegawa, Hatfield, Hobbs, Keiser, Kohl-Welles, McAuliffe, Murray, Ranker and Shin

Excused: Senators Carrell and Nelson

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hobbs moved that Dennis Kloida, Gubernatorial Appointment No. 9130, be confirmed as a member of the Housing Finance Commission.

Senator Hobbs spoke in favor of the motion.

APPOINTMENT OF DENNIS KLOIDA

The President declared the question before the Senate to be the confirmation of Dennis Kloida, Gubernatorial Appointment No. 9130, as a member of the Housing Finance Commission.

The Secretary called the roll on the confirmation of Dennis Kloida, Gubernatorial Appointment No. 9130, as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Absent: Senator Ericksen

Excused: Senators Carrell and Nelson

Dennis Kloida, Gubernatorial Appointment No. 9130, having received the constitutional majority was declared confirmed as a member of the Housing Finance Commission.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hobbs moved that M. A. Leonard, Gubernatorial Appointment No. 9132, be confirmed as a member of the Housing Finance Commission.

Senator Hobbs spoke in favor of the motion.

APPOINTMENT OF M. A. LEONARD

The President declared the question before the Senate to be the confirmation of M. A. Leonard, Gubernatorial Appointment No. 9132, as a member of the Housing Finance Commission.

The Secretary called the roll on the confirmation of M. A. Leonard, Gubernatorial Appointment No. 9132, as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Padden, Parlette, Pearson, Ranker,

Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senators Carrell and Nelson

M. A. Leonard, gubernatorial appointment No. 9132, having received the constitutional majority was declared confirmed as a member of the Housing Finance Commission.

REPORT OF THE CONFERENCE COMMITTEE

Engrossed Senate Bill No. 5666

April 23, 2013

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Senate Bill No. 5666, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 7.71.030 and 2012 c 165 s 1 are each amended to read as follows:

(1) If the limitation on damages under RCW 7.71.020 and P.L. 99-660 Sec. 411(a)(1) does not apply, this section shall provide the exclusive ~~((remedy)) remedies in any lawsuit by a health care provider~~ for any action taken by a professional peer review body of health care providers as defined in RCW 7.70.020~~((, that is found to be based on matters not related to the competence or professional conduct of a health care provider))~~.

(2) ~~((Actions)) Remedies~~ shall be limited to appropriate injunctive relief, and damages shall be allowed only for lost earnings directly attributable to the action taken by the professional peer review body, incurred between the date of such action and the date the action is functionally reversed by the professional peer review body.

(3) Reasonable attorneys' fees and costs shall be awarded if approved by the court under RCW 7.71.035.

(4) The statute of limitations for actions under this section shall be one year from the date of the action of the professional peer review body.

Sec. 2. RCW 70.41.200 and 2007 c 273 s 22 and 2007 c 261 s 3 are each reenacted and amended to read as follows:

(1) Every hospital shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of ~~((a)) one or more~~ quality improvement committees with the responsibility to review the services rendered in the hospital, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. ~~((The)) Different quality improvement committees may be established as a part of a quality improvement program to review different health care services. Such committees shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures;~~

(b) A process, including a medical staff privileges sanction procedure which must be conducted substantially in accordance with medical staff bylaws and applicable rules, regulations, or policies of the medical staff through which credentials, physical and mental capacity, professional conduct, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) ~~((The)) A process for the~~ periodic review of the credentials, physical and mental capacity, professional conduct, and competence in delivering health care services of all ~~((persons)) other health care providers~~ who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients including health care-associated infections as defined in RCW 43.70.056, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, infection control, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude:

(a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the

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reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the governing board of the hospital in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department of health shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical quality assurance commission or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department, the joint commission on accreditation of health care organizations, and any other accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of hospitals. Information so obtained shall not be subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each hospital shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510, a coordinated quality improvement committee maintained by an ambulatory surgical facility under RCW 70.230.070, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 74.42.640 (7) and (9), and 4.24.250.

(9) A hospital that operates a nursing home as defined in RCW 18.51.010 may conduct quality improvement activities for both the hospital and the nursing home through a quality improvement committee under this section, and such activities shall be subject to the provisions of subsections (2) through (8) of this section.

(10) Violation of this section shall not be considered negligence per se.

Sec. 3. RCW 70.41.230 and 1994 sp.s. c 9 s 744 are each amended to read as follows:

(1) Prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the hospital may request additional information going back further than five years, and the physician shall use his or her best efforts to comply with such a request for additional information;

(b) ~~((If such association, employment, privilege, or practice was discontinued, the reasons for its discontinuation))~~ Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

(i) License to practice any profession in any jurisdiction;

(ii) Other professional registration or certification in any jurisdiction;

(iii) Specialty or subspecialty board certification;

(iv) Membership on any hospital medical staff;

(v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;

(vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;

(vii) Professional society membership or fellowship;

(viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;

(ix) Academic appointment;

(x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;

(e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Prior to granting privileges or association to any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from any hospital with or at which the physician had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the physician:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.71.0195.

(3) The medical quality assurance commission shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) and (2) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(5) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude:

(a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(6) Hospitals shall be granted access to information held by the medical quality assurance commission and the board of osteopathic medicine and surgery pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(7) Violation of this section shall not be considered negligence per se.

Sec. 4. RCW 70.230.080 and 2007 c 273 s 9 are each amended to read as follows:

(1) Every ambulatory surgical facility shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of ((a)) one or more quality improvement committees with the responsibility to review the services rendered in the ambulatory surgical facility, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. ~~((The))~~ Different quality improvement committees may be established as a part of the quality improvement program to review different health care services. Such committees shall oversee and coordinate the quality

improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise the policies and procedures of the ambulatory surgical facility;

(b) A process, including a medical staff privileges sanction procedure which must be conducted substantially in accordance with medical staff bylaws and applicable rules, regulations, or policies of the medical staff through which credentials, physical and mental capacity, professional conduct, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the ambulatory surgical facility;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the ambulatory surgical facility's experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the ambulatory surgical facility for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual practitioners within the practitioner's personnel or credential file maintained by the ambulatory surgical facility;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee is not subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement

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activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence of information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any, and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the management of the ambulatory surgical facility, as identified in the facility's application, in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical quality assurance commission, the board of osteopathic medicine and surgery, or the podiatric medical board, as appropriate, may review and audit the records of committee decisions in which a practitioner's privileges are terminated or restricted. Each ambulatory surgical facility shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained is not subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of an ambulatory surgical facility to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department and any accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of the ambulatory surgical facility. Information so obtained is not subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each ambulatory surgical facility shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510 or 70.41.200, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents are not subject to the

discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 70.41.200(3), 74.42.640 (7) and (9), and 4.24.250.

(9) An ambulatory surgical facility that participates in a coordinated quality improvement program under RCW 43.70.510 shall be deemed to have met the requirements of this section.

(10) Violation of this section shall not be considered negligence per se.

Sec. 5. RCW 70.230.140 and 2007 c 273 s 15 are each amended to read as follows:

(1) Prior to granting or renewing clinical privileges or association of any practitioner or hiring a practitioner, an ambulatory surgical facility approved pursuant to this chapter shall request from the practitioner and the practitioner shall provide the following information:

(a) The name of any hospital, ambulatory surgical facility, or other facility with or at which the practitioner had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the ambulatory surgical facility may request additional information going back further than five years, and the physician shall use his or her best efforts to comply with such a request for additional information;

(b) ~~((If such association, employment, privilege, or practice was discontinued, the reasons for its discontinuation))~~ Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct;

(i) License to practice any profession in any jurisdiction;

(ii) Other professional registration or certification in any jurisdiction;

(iii) Specialty or subspecialty board certification;

(iv) Membership on any hospital medical staff;

(v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;

(vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;

(vii) Professional society membership or fellowship;

(viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;

(ix) Academic appointment;

(x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the practitioner deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the practitioner deems appropriate;

(e) A waiver by the practitioner of any confidentiality provisions concerning the information required to be provided to ambulatory surgical facilities pursuant to this subsection; and

(f) A verification by the practitioner that the information provided by the practitioner is accurate and complete.

(2) Prior to granting privileges or association to any practitioner or hiring a practitioner, an ambulatory surgical facility approved under this chapter shall request from any hospital or ambulatory surgical facility with or at which the practitioner had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the practitioner:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals or ambulatory surgical facilities pursuant to RCW 18.130.070.

(3) The medical quality assurance commission, board of osteopathic medicine and surgery, podiatric medical board, or dental quality assurance commission, as appropriate, shall be advised within thirty days of the name of any practitioner denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital, ambulatory surgical facility, or other facility that receives a request for information from another hospital, ambulatory surgical facility, or other facility pursuant to subsections (1) and (2) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital, ambulatory surgical facility, or other facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital, ambulatory surgical facility, or facility. A hospital, ambulatory surgical facility, other facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(5) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude:

(a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any, and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department to be made regarding the care and treatment received.

(6) Ambulatory surgical facilities shall be granted access to information held by the medical quality assurance commission, board of osteopathic medicine and surgery, or podiatric medical board pertinent to decisions of the ambulatory surgical facility regarding credentialing and recredentialing of practitioners.

(7) Violation of this section shall not be considered negligence per se."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "health care quality improvement measures, including professional peer review; amending RCW 7.71.030, 70.41.230, 70.230.080, and 70.230.140; and reenacting and amending RCW 70.41.200."

And the bill do pass as recommended by the conference committee.

Signed by Senators Dammeier, Becker and Frockt; Representatives Jinkins, Pedersen and Rodne.

MOTION

Senator Dammeier moved that the Report of the Conference Committee on Engrossed Senate Bill No. 5666 be adopted.

Senators Dammeier and Frockt spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Dammeier that the Report of the Conference Committee on Engrossed Senate Bill No. 5666 be adopted.

The motion by Senator Dammeier carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5666, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5666, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senators Carrell and Nelson

ENGROSSED SENATE BILL NO. 5666, as recommended by the Conference Committee, 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.

THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS MOTION

Senator Rolfes moved that Conrad Mahnken, Gubernatorial Appointment No. 9137, be confirmed as a member of the Fish and Wildlife Commission.

Senator Rolfes spoke in favor of the motion.

MOTION

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

APPOINTMENT OF CONRAD MAHNKEN

The President declared the question before the Senate to be the confirmation of Conrad Mahnken, Gubernatorial

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Appointment No. 9137, as a member of the Fish and Wildlife Commission.

The Secretary called the roll on the confirmation of Conrad Mahnken, Gubernatorial Appointment No. 9137, as a member of the Fish and Wildlife Commission and the appointment was confirmed by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Litzow, McAuliffe, Mullet, Nelson, Padden, Parlette, Pearson, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Voting nay: Senators Ericksen, Hatfield, Kohl-Welles and Murray

Excused: Senators Carrell and Ranker

Conrad Mahnken, Gubernatorial Appointment No. 9137, having received the constitutional majority was declared confirmed as a member of the Fish and Wildlife Commission.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Parlette moved that Steve Milner, Gubernatorial Appointment No. 9142, be confirmed as a member of the Parks and Recreation Commission.

Senator Parlette spoke in favor of the motion.

APPOINTMENT OF STEVE MILNER

The President declared the question before the Senate to be the confirmation of Steve Milner, Gubernatorial Appointment No. 9142, as a member of the Parks and Recreation Commission.

The Secretary called the roll on the confirmation of Steve Milner, Gubernatorial Appointment No. 9142, as a member of the Parks and Recreation Commission and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senator Carrell

Steve Milner, Gubernatorial Appointment No. 9142, having received the constitutional majority was declared confirmed as a member of the Parks and Recreation Commission.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hobbs moved that Mario Villanueva, Gubernatorial Appointment No. 9192, be confirmed as a member of the Housing Finance Commission.

Senators Hobbs and Honeyford spoke in favor of passage of the motion.

APPOINTMENT OF MARIO VILLANUEVA

The President declared the question before the Senate to be the confirmation of Mario Villanueva, Gubernatorial Appointment No. 9192, as a member of the Housing Finance Commission.

The Secretary called the roll on the confirmation of Mario Villanueva, Gubernatorial Appointment No. 9192, as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senator Carrell

Mario Villanueva, Gubernatorial Appointment No. 9192, having received the constitutional majority was declared confirmed as a member of the Housing Finance Commission.

MOTION

At 12:07 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:22 p.m. by President Owen.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Dammeier moved that Creigh Agnew, Gubernatorial Appointment No. 9072, be confirmed as a member of the Work Force Training and Education Coordinating Board.

Senator Dammeier spoke in favor of the motion.

MOTION

On motion of Senator Billig, Senator McAuliffe was excused.

APPOINTMENT OF CREIGH AGNEW

The President declared the question before the Senate to be the confirmation of Creigh Agnew, Gubernatorial Appointment No. 9072, as a member of the Work Force Training and Education Coordinating Board.

The Secretary called the roll on the confirmation of Creigh Agnew, Gubernatorial Appointment No. 9072, as a member of the Work Force Training and Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry,

Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senator Carrell

Creigh Agnew, Gubernatorial Appointment No. 9072, having received the constitutional majority was declared confirmed as a member of the Work Force Training and Education Coordinating Board.

MOTION

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

MESSAGE FROM THE HOUSE

April 26, 2013

MR. PRESIDENT:

The House has passed:

HOUSE CONCURRENT RESOLUTION NO. 4405,

HOUSE CONCURRENT RESOLUTION NO. 4406,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Murray moved that Kristianne Blake, Gubernatorial Appointment No. 9079, be confirmed as a member of the Board of Regents, University of Washington.

Senator Murray spoke in favor of the motion.

APPOINTMENT OF KRISTIANNE BLAKE

The President declared the question before the Senate to be the confirmation of Kristianne Blake, Gubernatorial Appointment No. 9079, as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Kristianne Blake, Gubernatorial Appointment No. 9079, as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senator Carrell

Kristianne Blake, Gubernatorial Appointment No. 9079, having received the constitutional majority was declared

confirmed as a member of the Board of Regents, University of Washington.

MOTION

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

MESSAGE FROM THE HOUSE

April 24, 2013

MR. PRESIDENT:

The House receded from its amendment(s) to SECOND SUBSTITUTE SENATE BILL NO. 5213. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5213-S2 AMH CODY H2475.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 74.09 RCW to read as follows:

The legislature finds that chronic care management, including comprehensive medication management services, provided by licensed pharmacists and qualified providers is a critical component of a collaborative, multidisciplinary, inter-professional approach to the treatment of chronic diseases for targeted individuals, to improve the quality of care and reduce overall cost in the treatment of such diseases.

Sec. 2. RCW 74.09.522 and 2011 1st sp.s. c 15 s 29, 2011 1st sp.s. c 9 s 2, and 2011 c 316 s 4 are each reenacted and amended to read as follows:

(1) For the purposes of this section:

(a) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(b) "Nonparticipating provider" means a person, health care provider, practitioner, facility, or entity, acting within their scope of practice, that does not have a written contract to participate in a managed health care system's provider network, but provides health care services to enrollees of programs authorized under this chapter whose health care services are provided by the managed health care system.

(2) The authority shall enter into agreements with managed health care systems to provide health care services to recipients of temporary assistance for needy families under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients statewide;

(b) Agreements in at least one county shall include enrollment of all recipients of temporary assistance for needy families;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the authority may limit recipient termination of enrollment without cause to the first month

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of a period of enrollment, which period shall not exceed twelve months: AND PROVIDED FURTHER, That the authority shall not restrict a recipient's right to terminate enrollment in a system for good cause as established by the authority by rule;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed health care systems shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems, except as authorized by the authority under federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e)(i) In negotiating with managed health care systems the authority shall adopt a uniform procedure to enter into contractual arrangements, to be included in contracts issued or renewed on or after January 1, ~~((2012))~~ 2015, including:

(A) Standards regarding the quality of services to be provided;

(B) The financial integrity of the responding system;

(C) Provider reimbursement methods that incentivize chronic care management within health homes, including comprehensive medication management services for patients with multiple chronic conditions consistent with the findings and goals established in section 1 of this act;

(D) Provider reimbursement methods that reward health homes that, by using chronic care management, reduce emergency department and inpatient use; ~~((and))~~

(E) Promoting provider participation in the program of training and technical assistance regarding care of people with chronic conditions described in RCW 43.70.533, including allocation of funds to support provider participation in the training, unless the managed care system is an integrated health delivery system that has programs in place for chronic care management;

(F) Provider reimbursement methods within the medical billing processes that incentivize pharmacists or other qualified providers licensed in Washington state to provide comprehensive medication management services consistent with the findings and goals established in section 1 of this act; and

(G) Evaluation and reporting on the impact of comprehensive medication management services on patient clinical outcomes and total health care costs, including reductions in emergency department utilization, hospitalization, and drug costs.

(ii)(A) Health home services contracted for under this subsection may be prioritized to enrollees with complex, high cost, or multiple chronic conditions.

(B) Contracts that include the items in (e)(i)(C) through ~~((E))~~ (G) of this subsection must not exceed the rates that would be paid in the absence of these provisions;

(f) The authority shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The authority shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the authority may enter into prepaid capitation contracts that do not include inpatient care;

(h) The authority shall define those circumstances under which a managed health care system is responsible for out-of-plan services and assure that recipients shall not be charged for such services;

(i) Nothing in this section prevents the authority from entering into similar agreements for other groups of people eligible to receive services under this chapter; and

(j) The ~~((department))~~ authority must consult with the federal center for medicare and medicaid innovation and seek funding opportunities to support health homes.

(3) The authority shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate as managed

health care systems are seriously considered as contractors. The authority shall coordinate its managed care activities with activities under chapter 70.47 RCW.

(4) The authority shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

(5) The legislature finds that competition in the managed health care marketplace is enhanced, in the long term, by the existence of a large number of managed health care system options for medicaid clients. In a managed care delivery system, whose goal is to focus on prevention, primary care, and improved enrollee health status, continuity in care relationships is of substantial importance, and disruption to clients and health care providers should be minimized. To help ensure these goals are met, the following principles shall guide the authority in its healthy options managed health care purchasing efforts:

(a) All managed health care systems should have an opportunity to contract with the authority to the extent that minimum contracting requirements defined by the authority are met, at payment rates that enable the authority to operate as far below appropriated spending levels as possible, consistent with the principles established in this section.

(b) Managed health care systems should compete for the award of contracts and assignment of medicaid beneficiaries who do not voluntarily select a contracting system, based upon:

(i) Demonstrated commitment to or experience in serving low-income populations;

(ii) Quality of services provided to enrollees;

(iii) Accessibility, including appropriate utilization, of services offered to enrollees;

(iv) Demonstrated capability to perform contracted services, including ability to supply an adequate provider network;

(v) Payment rates; and

(vi) The ability to meet other specifically defined contract requirements established by the authority, including consideration of past and current performance and participation in other state or federal health programs as a contractor.

(c) Consideration should be given to using multiple year contracting periods.

(d) Quality, accessibility, and demonstrated commitment to serving low-income populations shall be given significant weight in the contracting, evaluation, and assignment process.

(e) All contractors that are regulated health carriers must meet state minimum net worth requirements as defined in applicable state laws. The authority shall adopt rules establishing the minimum net worth requirements for contractors that are not regulated health carriers. This subsection does not limit the authority of the Washington state health care authority to take action under a contract upon finding that a contractor's financial status seriously jeopardizes the contractor's ability to meet its contract obligations.

(f) Procedures for resolution of disputes between the authority and contract bidders or the authority and contracting carriers related to the award of, or failure to award, a managed care contract must be clearly set out in the procurement document.

(6) The authority may apply the principles set forth in subsection (5) of this section to its managed health care purchasing efforts on behalf of clients receiving supplemental security income benefits to the extent appropriate.

(7) A managed health care system shall pay a nonparticipating provider that provides a service covered under this chapter to the system's enrollee no more than the lowest amount paid for that service under the managed health care system's contracts with similar providers in the state.

(8) For services covered under this chapter to medical assistance or medical care services enrollees and provided on or after August 24, 2011, nonparticipating providers must accept as payment in full the amount paid by the managed health care system under subsection (7) of this section in addition to any deductible, coinsurance, or copayment that is due from the enrollee for the service provided. An enrollee is not liable to any nonparticipating provider for covered services, except for amounts due for any deductible, coinsurance, or copayment under the terms and conditions set forth in the managed health care system contract to provide services under this section.

(9) Pursuant to federal managed care access standards, 42 C.F.R. Sec. 438, managed health care systems must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the department, including hospital-based physician services. The department will monitor and periodically report on the proportion of services provided by contracted providers and nonparticipating providers, by county, for each managed health care system to ensure that managed health care systems are meeting network adequacy requirements. No later than January 1st of each year, the department will review and report its findings to the appropriate policy and fiscal committees of the legislature for the preceding state fiscal year.

(10) Subsections (7) through (9) of this section expire July 1, 2016."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Becker moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5213.
Senators Becker and Keiser spoke in favor of the motion.

MOTION

On motion of Senator Harper, Senator Hatfield was excused.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5213.

The motion by Senator Becker carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5213 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5213, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5213, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senators Carrell and Hatfield

SECOND SUBSTITUTE SENATE BILL NO. 5213, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 25, 2013

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SENATE BILL NO. 5221. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5221.E AMH PEDE ADAM 082, and passed the bill as amended by the House.

On page 3, beginning on line 3, after "(4)" strike all material through "determination." on line 7 and insert "A facility conducting a civil commitment evaluation under RCW 10.77.086(4) or 10.77.088(1)(b)(ii) that makes a determination to release the person instead of filing a civil commitment petition must provide written notice to the prosecutor and defense attorney at least twenty-four hours prior to release. The notice may be given by electronic mail, facsimile, or other means reasonably likely to communicate the information immediately." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5221.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5221.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5221 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5221, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5221, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Voting nay: Senator Padden

Excused: Senators Carrell and Hatfield

ENGROSSED SENATE BILL NO. 5221, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

REMARKS BY THE PRESIDENT

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President Owen: "The President would ask the Senate to join me in wishing Senator Roach a very Happy Birthday, today."

PERSONAL PRIVILEGE

Senator Roach: "Thank you. I can only tell you that now that I am officially old. I used to fight it. Nope, now I am. Should a little more respect come my way, right? Thanks very much. Appreciate the wishes Mr. President and looking forward to at least part of this weekend we will be here but then I have my five kids and sixteen grand kids and we're going to have a birthday bash and I surely appreciate your good wishes. Thank you so much."

MESSAGE FROM THE HOUSE

April 12, 2013

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5236 with the following amendment(s): 5236.E AMH ENGR H2276.E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. DEFINITION. The definition in this section applies throughout this chapter unless the context clearly requires otherwise.

"Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, or other legal or commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

NEW SECTION. Sec. 2. SCOPE. (1) This chapter applies to any claim for relief, however characterized, for damages arising out of harm caused by the false content of a publication that is published on or after the effective date of this section.

(2) This chapter applies to all publications, including writings, broadcasts, oral communications, electronic transmissions, or other forms of transmitting information.

NEW SECTION. Sec. 3. REQUEST FOR CORRECTION OR CLARIFICATION. (1) A person may maintain an action for defamation only if:

(a) The person has made a timely and adequate request for correction or clarification from the defendant; or

(b) The defendant has made a correction or clarification.

(2) A request for correction or clarification is timely if made within the period of limitation for commencement of an action for defamation. However, a person who, within ninety days after knowledge of the publication, fails to make a good-faith attempt to request a correction or clarification may not recover damages for injury to reputation or presumed damages; however, the person may recover all other damages permitted by law.

(3) A request for correction or clarification is adequate if it:

(a) Is made in writing and reasonably identifies the person making the request;

(b) Specifies with particularity the statement alleged to be false and defamatory and, to the extent known, the time and place of publication;

(c) Alleges the defamatory meaning of the statement;

(d) Specifies the circumstances giving rise to any defamatory meaning of the statement which arises from other than the express language of the publication; and

(e) States that the alleged defamatory meaning of the statement is false.

(4) In the absence of a previous adequate request, service of a summons and complaint stating a claim for relief for defamation and

containing the information required in subsection (3) of this section constitutes an adequate request for correction or clarification.

NEW SECTION. Sec. 4. DISCLOSURE OF EVIDENCE OF FALSITY. (1) A person who has been requested to make a correction or clarification may ask the requester to disclose reasonably available information material to the falsity of the allegedly defamatory statement.

(2) If a correction or clarification is not made, a person who unreasonably fails to disclose the information after a request to do so may not recover damages for injury to reputation or presumed damages; however, the person may recover all other damages permitted by law.

NEW SECTION. Sec. 5. EFFECT OF CORRECTION OR CLARIFICATION. If a timely and sufficient correction or clarification is made, a person may not recover damages for injury to reputation or presumed damages; however, the person may recover all other damages permitted by law as well as reasonable expenses of litigation, including attorneys' fees incurred before the publication of the correction or clarification.

NEW SECTION. Sec. 6. TIMELY AND SUFFICIENT CORRECTION OR CLARIFICATION. (1) A correction or clarification is timely if it is published before, or within one month after, receipt of a request for correction or clarification or of the information in section 4(1) of this act, whichever is later, unless the period is extended by written agreement of the parties.

(2) A correction or clarification is sufficient if it:

(a) Is published with a prominence and in a manner and medium reasonably likely to reach substantially the same audience as the publication complained of;

(b) Refers to the statement being corrected or clarified and:

(i) Corrects the statement;

(ii) In the case of defamatory meaning arising from other than the express language of the publication, disclaims an intent to communicate that meaning or to assert its truth; or

(iii) In the case of a statement attributed to another person, identifies the person and disclaims an intent to assert the truth of the statement;

(c) Is communicated to the person who has made a request for correction or clarification; and

(d) Accompanies and is an equally prominent part of any electronic publication of the allegedly defamatory statement by the publisher.

(3) A correction or clarification is published in a medium reasonably likely to reach substantially the same audience as the publication complained of if it is published in a later issue, edition, or broadcast of the original publication.

(4) If a later issue, edition, or broadcast of the original publication will not be published within the time limits established for a timely correction or clarification, a correction or clarification is published in a manner and medium reasonably likely to reach substantially the same audience as the publication complained of if:

(a) It is timely published in a reasonably prominent manner:

(i) In another medium likely to reach an audience reasonably equivalent to the original publication; or

(ii) If the parties cannot agree on another medium, in the newspaper with the largest general circulation in the region in which the original publication was distributed;

(b) Reasonable steps are taken to correct undistributed copies of the original publication, if any; and

(c) It is published in the next practicable issue, edition, or broadcast, if any, of the original publication.

(5) A correction or clarification is timely and sufficient if the parties agree in writing that it is timely and sufficient.

NEW SECTION. Sec. 7. CHALLENGES TO CORRECTION OR CLARIFICATION OR TO REQUEST FOR

CORRECTION OR CLARIFICATION. (1) If a defendant in an action governed by this chapter intends to rely on a timely and sufficient correction or clarification, the defendant's intention to do so, and the correction or clarification relied upon, must be set forth in a notice served on the plaintiff within sixty days after service of the summons and complaint or ten days after the correction or clarification is made, whichever is later. A correction or clarification is deemed to be timely and sufficient unless the plaintiff challenges its timeliness or sufficiency within twenty days after the notice is served.

(2) If a defendant in an action governed by this chapter intends to challenge the adequacy or timeliness of a request for correction or clarification, the defendant must set forth the challenge in a motion to declare the request inadequate or untimely served within sixty days after service of the summons and complaint. The court shall rule on the motion at the earliest appropriate time before trial.

NEW SECTION. Sec. 8. OFFER TO CORRECT OR CLARIFY. (1) If a timely correction or clarification is no longer possible, the publisher of an alleged defamatory statement may offer, at any time before trial, to make a correction or clarification. The offer must be made in writing to the person allegedly defamed by the publication and:

(a) Contain the publisher's offer to:

(i) Publish, at the person's request, a sufficient correction or clarification; and

(ii) Pay the person's reasonable expenses of litigation, including attorneys' fees, incurred before publication of the correction or clarification; and

(b) Be accompanied by a copy of the proposed correction or clarification and the plan for its publication.

(2) If the person accepts in writing an offer to correct or clarify made pursuant to subsection (1) of this section:

(a) The person is barred from commencing an action against the publisher based on the statement; or

(b) If an action has been commenced, the court shall dismiss the action against the defendant with prejudice after the defendant complies with the terms of the offer.

(3) A person who does not accept an offer made in conformance with subsection (1) of this section may not recover damages for injury to reputation or presumed damages in an action based on the statement; however, the person may recover all other damages permitted by law, as well as reasonable expenses of litigation, including attorneys' fees, incurred before the offer, unless the person failed to make a good-faith attempt to request a correction or clarification in accordance with section 3(2) of this act or failed to disclose information in accordance with section 4 of this act.

(4) On request of either party, a court shall promptly determine the sufficiency of the offered correction or clarification.

NEW SECTION. Sec. 9. SCOPE OF PROTECTION. A timely and sufficient correction or clarification made by a person responsible for a publication constitutes a correction or clarification made by all persons responsible for that publication other than a republisher. However, a correction or clarification that is sufficient only because of the operation of section 6(2)(b)(iii) of this act does not constitute a correction or clarification made by the person to whom the statement is attributed.

NEW SECTION. Sec. 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

NEW SECTION. Sec. 11. SHORT TITLE. This chapter may be known and cited as the uniform correction or clarification of defamation act.

NEW SECTION. Sec. 12. 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. 13. Sections 1 through 11 of this act constitute a new chapter in Title 7 RCW."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Padden moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5236 and ask the House to recede therefrom.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5236 and ask the House to recede therefrom.

The motion by Senator Padden carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 5236 and asked the House to recede therefrom by voice vote.

MOTION

At 2:43 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:07 p.m. by President Owen.

MOTION

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

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

HCR 4405 by Representatives Sullivan and Kretz

Directing that HB 2056 be considered.

HCR 4406 by Representatives Sullivan and Kretz

Directing that HB 2058 be considered.

MOTION

On motion of Senator Fain, under suspension of the rules House Concurrent Resolution No. 4405 and House Concurrent Resolution No. 4406 were placed on the second reading calendar.

MOTION

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

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4405, by Representatives Sullivan and Kretz

Directing that HB 2056 be considered.

The measure was read the second time.

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MOTION

Senator Fain moved that the rules be suspended and House Concurrent Resolution No. 4405 be advanced to third reading, the second reading considered the third and the resolution be placed on final passage.

PARLIAMENTARY INQUIRY

Senator Padden: "Mr. President, has the resolution itself been passed out to the members?"

REPLY BY THE PRESIDENT

President Owen: "No, it has not."

PARLIAMENTARY INQUIRY

Senator Padden: "Mr. President, would it be possible in lieu of making copies of the resolution that perhaps the clerk could read the resolution?"

The President called upon the Secretary to read House Concurrent Resolution No. 4405 in full and the resolution was read.

Without objection, the motion by Senator Fain carried and the rules were suspended and House Concurrent Resolution No. 4405 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Fain and Frockt spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of House Concurrent Resolution No. 4405.

ROLL CALL

The Secretary called the roll on the final passage of House Concurrent Resolution No. 4405 and the resolution passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senators Carrell and Hatfield
HOUSE CONCURRENT RESOLUTION NO. 4405, having received the constitutional majority, was declared passed.

MOTION

At 3:16 p.m., on motion of Senator Fain, the Senate adjourned until 11:00 a.m. Saturday, April 27, 2013.

BRAD OWEN, President of the Senate

HUNTER GOODMAN, Secretary of the Senate

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