

**SIXTIETH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Thursday, March 12, 2009

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Becker, Benton, Fairley, Pflug and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Marlee Chavez and Halee Spencer, presented the Colors. Associate Pastor Gary Todd of Capital Christian Center of Olympia offered the prayer.

**MOTION**

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

**MOTION**

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

**MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS**

March 11, 2009

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.

STEVEN DREW, reappointed January 13, 2009, for the term ending December 31, 2011, as Member of the Recreation and Conservation Funding Board.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

**MOTION**

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

**MOTION**

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

**INTRODUCTION AND FIRST READING**

SB 6122 by Senators Prentice, Zarelli and Brandland

AN ACT Relating to reducing costs of the elections division of the office of the secretary of state; amending RCW 29A.52.330, 29A.52.340, 43.78.030, 29A.32.031, 29A.32.040, 29A.32.050, 29A.32.121, 29A.72.025, 29A.04.530, 29A.04.540, 29A.04.550, 29A.04.570, 29A.04.570, and 43.07.310; reenacting and amending RCW 29A.04.611; repealing RCW 29A.04.236, 29A.04.245, 29A.04.510, 29A.04.520, 29A.04.630, and 29A.40.150;

providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 6123 by Senator Prentice

AN ACT Relating to legal notices for constitutional amendments and state measures; repealing RCW 29A.52.330 and 29A.52.340; and providing a contingent effective date.

Referred to Committee on Ways & Means.

SJR 8217 by Senator Prentice

Changing the notice requirement for amendments submitted to the people.

Referred to Committee on Ways & Means.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

E2SHB 1009 by House Committee on Finance (originally sponsored by Representatives Morris, Chase, Lias, Anderson, Orcutt, Seaquist, Hudgins and Moeller)

AN ACT Relating to extending the expiration dates for existing sales and use tax exemptions related to certain electricity generation; amending RCW 82.08.02567 and 82.12.02567; providing an effective date; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

ESHB 1114 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Orcutt, Green, Springer, Van De Wege, Rolfes, McCune, Simpson, Goodman, Warnick and Conway)

AN ACT Relating to hunters under the age of fourteen; and amending RCW 77.32.010 and 77.15.160.

Referred to Committee on Natural Resources, Ocean & Recreation.

HB 1197 by Representatives Haigh, Kristiansen, Hunt and Armstrong

AN ACT Relating to alternative public works; amending RCW 39.10.230, 39.10.250, 39.10.270, 39.10.300, 39.10.330, 39.10.360, and 39.10.420; and repealing RCW 39.10.310.

Referred to Committee on Government Operations & Elections.

HB 1287 by Representatives Morris, Bailey, Ericks, Hinkle, Sullivan and Priest

AN ACT Relating to sales and use tax exemptions in respect to aircraft used in intrastate commuter operations; and amending RCW 82.08.0262 and 82.12.0254.

Referred to Committee on Ways & Means.

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HB 1374 by Representatives Dunshee and Warnick

AN ACT Relating to the local government archives account; amending RCW 40.14.024 and 36.22.175; and amending 2008 c 328 s 6010(uncodified).

Referred to Committee on Ways & Means.

ESHB 1379 by House Committee on Local Government & Housing (originally sponsored by Representatives Seaquist, Angel and Liias)

AN ACT Relating to moratoria and other interim official controls adopted under the shoreline management act; adding a new section to chapter 90.58 RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

SHB 1419 by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Kagi, Dickerson, Walsh, Roberts, Hunt and Appleton)

AN ACT Relating to sexually aggressive youth; amending RCW 74.13.075; and creating a new section.

Referred to Committee on Human Services & Corrections.

SHB 1435 by House Committee on Commerce & Labor (originally sponsored by Representatives Condotta and Conway)

AN ACT Relating to licensing administration for cigarettes and tobacco products; and amending RCW 82.24.510, 82.24.550, 82.26.060, 82.26.150, 82.26.180, 82.26.190, 82.26.210, and 82.26.220.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1517 by Representatives Darneille, Green, Dickerson, Goodman, Ormsby, Roberts, Flannigan, Pedersen, Appleton, Upthegrove, Simpson, Hasegawa, Chase, Liias, Miloscia, Kagi, Hudgins, Hunt, Santos, Wood, Moeller, Williams, Kenney, Carlyle, Nelson and Quall

AN ACT Relating to the restoration of the right to vote for people who were convicted of felonies; amending RCW 29A.08.520, 9.92.066, 9.94A.637, 10.64.140, and 9.94A.885; reenacting and amending RCW 9.96.050; and repealing RCW 10.64.021.

Referred to Committee on Government Operations & Elections.

SHB 1565 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby, Kelley, Williams and Simpson)

AN ACT Relating to business continuity plans for domestic insurers; amending RCW 48.07.160, 48.07.170, 48.07.180, 48.07.190, and 48.07.200; adding new sections to chapter 48.07 RCW; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 1597 by House Committee on Finance (originally sponsored by Representatives Springer and Hunter)

AN ACT Relating to improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration; amending RCW 82.04.240, 82.04.2404, 82.04.250, 82.04.2909, 82.04.294, 82.04.426, 82.04.4266, 82.04.4268, 82.04.4269, 82.04.4452, 82.04.4461, 82.04.4463, 82.04.448, 82.04.4481, 82.04.4483, 82.04.4484, 82.04.449, 82.08.805, 82.08.965, 82.08.9651, 82.08.970, 82.08.980, 82.12.022, 82.12.805, 82.12.965, 82.12.9651, 82.12.970, 82.12.980, 82.16.0421, 82.29A.137, 82.60.020, 82.60.070, 82.63.020, 82.63.045, 82.74.040, 82.74.050, 82.75.010, 82.75.020, 82.75.040, 82.82.020, 82.82.040, 84.36.645, 84.36.655, 42.56.230, 82.16.120, 82.32.330, 82.32.480, 82.60.100, 82.62.080, 82.63.070, 82.74.070, 82.75.060, 83.100.210, 39.100.050, 82.36.440, 82.38.280, 82.04.3651, 82.08.02573, 82.08.0273, 82.08.0293, 82.08.865, 82.12.035, 82.12.040, 82.12.865, 82.80.120, 83.100.040, 83.100.046, 82.04.280, 82.04.280, 29A.36.210, 36.68.525, 36.69.145, 82.03.140, 84.34.020, 84.36.040, 84.36.381, 84.37.030, 84.37.902, 84.40.042, 84.48.050, 84.52.030, 84.52.070, 84.52.080, 84.56.070, 84.60.050, 86.09.490, 87.03.265, and 87.03.270; amending 2006 c 300 s 12 (uncodified); reenacting and amending RCW 82.04.260, 82.32.590, 82.32.600, 82.04.050, and 84.36.383; adding new sections to chapter 82.32 RCW; adding a new section to chapter 82.75 RCW; adding a new section to chapter 35.102 RCW; creating new sections; repealing RCW 82.32.535, 82.32.5351, 82.32.545, 82.32.560, 82.32.570, 82.32.610, 82.32.620, 82.32.630, 82.32.645, 82.32.650, 82.16.140, and 84.55.080; repealing 2005 c 301 s 5 (uncodified); providing a contingent effective date; and providing expiration dates.

Referred to Committee on Ways & Means.

E2SHB 1698 by House Committee on Finance (originally sponsored by Representatives Hudgins and McCoy)

AN ACT Relating to broadband adoption and deployment; adding new sections to chapter 43.105 RCW; and creating a new section.

Referred to Committee on Economic Development, Trade & Innovation.

SHB 1751 by House Committee on Finance (originally sponsored by Representatives Kessler, Van De Wege, Takko, Kenney, Finn, Haigh and Blake)

AN ACT Relating to the time period during which sales and use tax for public facilities in rural counties may be collected; and reenacting and amending RCW 82.14.370.

Referred to Committee on Ways & Means.

HB 1753 by Representatives Hunter, Hunt, Green, Armstrong, Kessler, Appleton and Alexander

AN ACT Relating to filing reports electronically to the legislature and the governor; and adding a new section to chapter 43.01 RCW.

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Referred to Committee on Government Operations & Elections.

SHB 1776 by House Committee on Education Appropriations (originally sponsored by Representatives Ericks, Haigh, Priest, Hunter, Lias, Sullivan, Pedersen, Maxwell, White and Kenney)

AN ACT Relating to school district levies; amending RCW 84.52.0531 and 84.52.053; adding a new section to chapter 84.52 RCW; repealing 2004 c 21 s 3 (uncodified); and repealing 2006 c 119 s 3 (uncodified).

Referred to Committee on Ways & Means.

SHB 1808 by House Committee on Education Appropriations (originally sponsored by Representatives Hinkle, Morrell, Bailey, Green and Kelley)

AN ACT Relating to an interdisciplinary work group with faculty from a paramedic training program and an associate degree in nursing program; creating a new section; and providing an expiration date.

Referred to Committee on Higher Education & Workforce Development.

E2SHB 1879 by House Committee on Education Appropriations (originally sponsored by Representatives Jacks, Kagi, Moeller, Orcutt, Wallace, Appleton and Kenney)

AN ACT Relating to the delivery of educational services to children who are deaf and hearing impaired; amending RCW 72.40.010, 72.40.019, 72.40.024, 72.40.028, 72.40.120, 72.40.200, 72.40.210, 72.40.031, 72.42.010, 72.42.015, 72.42.016, 72.42.021, 72.42.041, 72.40.070, 72.40.220, 72.40.250, 72.40.280, 72.42.060, 26.44.210, 28A.155.160, 28A.310.010, 28A.310.180, 28A.310.200, 28A.335.205, 28A.400.303, 28A.400.305, 28A.600.420, 41.40.088, and 70.198.020; adding new sections to chapter 72.42 RCW; creating new sections; repealing RCW 72.40.023; and providing an expiration date.

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

SHB 1914 by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Kenney, Simpson and Nelson)

AN ACT Relating to the use of certificates of participation to finance maintenance and operations of institutions of higher education; and adding a new section to chapter 28B.10 RCW.

Referred to Committee on Ways & Means.

E2SHB 1935 by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Morrell, Walsh, Cody, Orwall, Kenney, Bailey, Miloscia, Green, Kelley and Williams)

AN ACT Relating to adult family homes; amending RCW 70.128.040, 70.128.005, and 70.128.060; adding a new section to chapter 70.128 RCW; and adding a new section to chapter 64.38 RCW.

Referred to Committee on Health & Long-Term Care.

EHB 1967 by Representatives White, Campbell, Nelson, Simpson, Williams, Wallace, Dunshee, Dickerson, Hunt, Ormsby and Sullivan

AN ACT Relating to prohibiting expansions of urban growth areas into one hundred year floodplains; and amending RCW 36.70A.110.

Referred to Committee on Government Operations & Elections.

2SHB 1985 by House Committee on Ways & Means (originally sponsored by Representatives Moeller and Pedersen)

AN ACT Relating to public health financing; amending RCW 43.70.512, 43.70.514, 43.70.516, and 43.70.518; adding a new section to chapter 43.70 RCW; creating new sections; repealing RCW 43.70.522; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SHB 2042 by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Parker, Hasegawa, Chase and Ormsby)

AN ACT Relating to the incentive in the motion picture competitiveness programs; amending RCW 43.365.020; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2052 by House Committee on Ways & Means (originally sponsored by Representative Cody)

AN ACT Relating to delaying implementation of the health insurance partnership; amending RCW 70.47A.030, 70.47A.040, and 70.47A.070; and repealing 2007 c 260 s 11 (uncodified).

Referred to Committee on Ways & Means.

SHB 2079 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Ericksen and Morrell)

AN ACT Relating to the office of financial management's access to health professional licensing information; and amending RCW 43.370.020.

Referred to Committee on Health & Long-Term Care.

ESHB 2105 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody and Morrell)

AN ACT Relating to diagnostic imaging services; adding a new chapter to Title 70 RCW; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

2SHB 2119 by House Committee on Ways & Means (originally sponsored by Representatives Wallace, Carlyle, Sullivan, Morrell, Quall, Santos and Ormsby)

AN ACT Relating to expanding dual credit opportunities; amending RCW 28A.225.290, 28A.600.160, 28A.600.300,

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and 28A.600.310; adding new sections to chapter 28A.600 RCW; and creating a new section.

Referred to Committee on Ways & Means.

EHB 2122 by Representatives Kessler, Blake, Ericks, Takko, Wallace, Morris, Lias, Hunt, Kelley, Quall, Sullivan and Van De Wege

AN ACT Relating to reducing the business and occupation tax burden on the newspaper industry; amending RCW 82.04.280, 82.04.280, 35.102.150, and 82.08.806; amending 2006 c 300 s 12 (uncodified); reenacting and amending RCW 82.04.260, 82.32.590, and 82.32.600; adding a new section to chapter 82.32 RCW; providing an effective date; providing a contingent effective date; providing a contingent expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

ESHB 2126 by House Committee on Commerce & Labor (originally sponsored by Representatives Orwall, Darneille, Nelson, Jacks, Hasegawa, Van De Wege, Lias and Kenney)

AN ACT Relating to consolidating and modifying the duties of the cemetery board and the board of funeral directors and embalmers; amending RCW 18.39.010, 18.39.173, 18.39.175, 18.39.217, 18.235.020, 68.04.190, 68.05.020, 68.05.095, 68.05.100, 68.05.105, 68.05.175, 68.05.205, 68.24.090, 68.40.040, 68.44.115, 68.44.150, 68.46.010, 68.46.090, 68.46.130, 68.50.230, 68.60.030, 68.60.050, and 68.60.060; adding a new section to chapter 18.39 RCW; creating a new section; and repealing RCW 18.39.800, 68.05.040, 68.05.050, 68.05.060, 68.05.080, and 68.05.285.

Referred to Committee on Government Operations & Elections.

EHB 2138 by Representatives Simpson and Chase

AN ACT Relating to the use of surplus property for the development of affordable housing; and amending RCW 43.63A.510, 47.12.063, 47.12.064, 43.20A.037, 72.09.055, 43.19.19201, 79A.05.170, 79A.05.175, 36.34.137, 35.21.687, 79.11.005, and 79.22.060.

Referred to Committee on Government Operations & Elections.

ESHB 2254 by House Committee on Capital Budget (originally sponsored by Representatives White, Dunshee and Kenney)

AN ACT Relating to construction financing for state colleges and universities; and amending RCW 28B.15.210, 28B.15.310, 28B.35.370, and 28B.50.360.

Referred to Committee on Ways & Means.

ESHB 2267 by House Committee on Ways & Means (originally sponsored by Representatives Conway, Haigh, Hunt and Kenney)

AN ACT Relating to protecting the collective bargaining rights of certain exempt employees; amending RCW 41.06.070 and 41.06.133; and declaring an emergency.

Referred to Committee on Ways & Means.

EHB 2279 by Representatives Hurst, Hope, Dunshee, Kelley and Roach

AN ACT Relating to the offense of assault of a child in the first degree by requiring the review of the sentencing of offenders and modifying the conditions of release; amending RCW 9.94A.703; creating new sections; and providing an effective date.

Referred to Committee on Judiciary.

SHB 2287 by House Committee on Ways & Means (originally sponsored by Representatives Kessler and Van De Wege)

AN ACT Relating to requiring state agencies to use one hundred percent recycled content paper; adding a new section to chapter 43.19A RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

MOTION

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

MOTION

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

SECOND READING

SENATE BILL NO. 5008, by Senators Hewitt, Hobbs, Honeyford, Schoesler, Zarelli, Parlette, Stevens, Kilmer, Hatfield, Swecker, Benton and Roach

Regarding hunting licensing requirements for members of the military.

The measure was read the second time.

MOTION

On motion of Senator Hewitt, the rules were suspended, Senate Bill No. 5008 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hewitt spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Brown and Fairley were excused.

MOTION

On motion of Senator Brandland, Senators Benton, Pflug, Stevens and Zarelli were excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5008.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5008 and the bill passed the Senate by the following

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vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Absent: Senator Becker

Excused: Senators Benton, Fairley, Pflug and Zarelli

SENATE BILL NO. 5008, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5061, by Senator Jacobsen

Enhancing natural resource collections at the Washington park arboretum.

MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 5061 was substituted for Senate Bill No. 5061 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 5061 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5061.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5061 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Excused: Senators Pflug and Zarelli

SUBSTITUTE SENATE BILL NO. 5061, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5160, by Senators Kline, McCaslin and Tom

Concerning service of notice from seizing law enforcement agencies.

MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 5160 was substituted for Senate Bill No. 5160 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 5160 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5160.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5160 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5160, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5343, by Senators Regala, Carrell and Kline

Exempting certified public accountants from the restrictions on marketing estate distribution documents for certain purposes. Revised for 1st Substitute: Exempting specified persons from restrictions on marketing estate distribution documents.

MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5343 was substituted for Senate Bill No. 5343 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5343 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5343.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5343 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5343, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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SENATE BILL NO. 5424, by Senators Parlette and Sheldon

Concerning interest rate and penalty provisions in the current use program.

## MOTIONS

On motion of Senator Parlette, Substitute Senate Bill No. 5424 was substituted for Senate Bill No. 5424 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Parlette, the rules were suspended, Substitute Senate Bill No. 5424 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5424.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5424 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5424, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5499, by Senators Jarrett, Swecker, Haugen, Marr and Shin

Concerning bond amounts for department of transportation highway contracts.

## MOTIONS

On motion of Senator Jarrett, Substitute Senate Bill No. 5499 was substituted for Senate Bill No. 5499 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jarrett, the rules were suspended, Substitute Senate Bill No. 5499 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jarrett spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5499.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5499 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice,

Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5499, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5565, by Senator Rockefeller

Regarding the use of certain solid fuel burning devices.

## MOTIONS

On motion of Senator Rockefeller, Substitute Senate Bill No. 5565 was substituted for Senate Bill No. 5565 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Rockefeller, the rules were suspended, Substitute Senate Bill No. 5565 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

## POINT OF INQUIRY

Senator Sheldon: "Would Senator Rockefeller yield to a question? Thank you Senator Rockefeller. Solid fuel burning device, is that an Ivy League term for a wood stove?"

Senator Rockefeller: "Mr. President, I haven't heard that suggestion before. I don't think the Ivy League definition was brought into this legislation but I thank the member for his inquiry."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5565.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5565 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Hewitt, Holmquist, Honeyford, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5565, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5601, by Senator Franklin

Regulating speech-language pathology assistants.

## MOTION

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On motion of Senator Franklin, Substitute Senate Bill No. 5601 was substituted for Senate Bill No. 5601 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 8, beginning on line 19, after "pathologists," strike "speech-language pathology assistant."

Senator Franklin spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Franklin on page 8, line 19 to Substitute Senate Bill No. 5601.

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

#### MOTION

On motion of Senator Franklin, the rules were suspended, Engrossed Substitute Senate Bill No. 5601 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Franklin spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5601.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5601 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Carrell, Hewitt, Hobbs, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Schoesler, Stevens and Swecker

Excused: Senator Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 5601, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5610, by Senators Haugen, Delvin, Sheldon, Berkey, Jarrett and Shin

Authorizing the release of driving record abstracts for employment and risk management purposes. Revised for 1st Substitute: Authorizing the release of driving record abstracts for employment purposes.

#### MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5610 was substituted for Senate Bill No. 5610 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5610 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Kastama spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5610.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5610 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Delvin, Eide, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Jarrett, Kilmer, King, Marr, McAuliffe, McCaslin, Morton, Murray, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Benton, Carrell, Fairley, Franklin, Holmquist, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McDermott, Oemig, Parlette and Pridemore

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5610, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6016, by Senators Benton, McAuliffe, Swecker, McDermott, Roach, Delvin, Stevens, Honeyford, McCaslin, Morton and Shin

Regarding educator training to enhance skills of students with dyslexia.

#### MOTIONS

On motion of Senator McAuliffe, Substitute Senate Bill No. 6016 was substituted for Senate Bill No. 6016 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Substitute Senate Bill No. 6016 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Benton, McAuliffe, Jacobsen, Kastama and Eide spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Brandland, Senator Delvin was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6016.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6016 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Pflug

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SUBSTITUTE SENATE BILL NO. 6016, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5833, by Senators Regala, Kohl-Welles, Hargrove and McDermott

Providing certain procedures for tenants who are victims of sexual assault, sexual harassment, and stalking. Revised for 1st Substitute: Providing certain procedures for tenants who are victims of sexual assault, unlawful harassment, and stalking.

#### MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5833 was substituted for Senate Bill No. 5833 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5833 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Stevens and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5833.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5833 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator McAuliffe

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5833, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5916, by Senators Kohl-Welles, Rockefeller, Kauffman, Pridemore, Keiser, Marr, Hatfield, Delvin, Honeyford, Schoesler and Hewitt

Authorizing the department of information services to engage in high-speed internet adoption, deployment, and digital inclusion activities.

#### MOTION

On motion of Senator Kastama, Second Substitute Senate Bill No. 5916 was substituted for Senate Bill No. 5916 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Kastama moved that the following amendment by Senators Kastama, Kohl-Welles and Zarelli be adopted.

Beginning on page 5, line 18, strike all of section 6 and insert the following:

"NEW SECTION. **Sec. 6.** (1) The authority for overseeing broadband adoption and deployment efforts in the state is vested in the department of information services.

(a) The department is the single eligible entity in the state to receive a grant under the federal broadband data improvement act, P.L. 110-385.

(b) Funding received by the department under the federal broadband data improvement act, P.L. 110-385, must be used in accordance with the requirements of that act and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state to achieve the purposes of that act.

(2) The department may apply for and oversee implementation of federally funded or mandated broadband programs and may adopt rules to administer the programs. These programs may include but are not limited to the following:

(a) Contracting for and purchasing a completed map of privately controlled or owned broadband infrastructure. The map may include, but is not limited to, adoption information, availability information, types of technology used, the physical location of broadband infrastructure, and available speed tiers for high-speed internet;

(b) Engaging in periodic statewide surveys of residents, businesses, and nonprofit organizations concerning their use and adoption of high-speed internet and related information technology for the purpose of identifying barriers to adoption;

(c) Working with communities to identify barriers to the adoption of broadband service and related information technology services by individuals, nonprofit organizations, and businesses;

(d) Identifying broadband demand opportunities in communities by working cooperatively with local organizations, government agencies, and businesses;

(e) Creating, implementing, and administering programs to improve computer ownership, technology literacy, and high-speed internet access for populations not currently served or underserved in the state. This may include programs to provide low-income families, community-based nonprofit organizations, nonprofit entities, and public entities that work in partnership with nonprofit entities to provide increased access to computers and broadband, with reduced cost internet access;

(f) Administering the community technology opportunity program under chapter 28B.32 RCW (as recodified by this act); and

(g) Creating additional programs to spur the development of high-speed internet resources in the state, which may include, but is not limited to:

(i) Applying for and receiving funding in the form of grants or donations which may be deposited into the Washington community technology opportunity account created in RCW 28B.32.030 (as recodified by this act);

(ii) Establishing technology literacy and digital inclusion programs and establishing low-cost hardware and software purchasing programs;

(iii) Developing last-mile technology loan programs targeting small businesses or businesses located in unserved and underserved areas; and

(iv) Including community technology organizations in state hardware and software purchasing programs."

Senator Kastama spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama, Kohl-Welles and Zarelli on page 5, line 18 to Second Substitute Senate Bill No. 5916.



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

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5916 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5916.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5916 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Pflug

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5916, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:00 a.m., on motion of Senator Eide, the Senate was recessed until 12:30 p.m.

#### AFTERNOON SESSION

The Senate was called to order at 12:47 p.m. by the President Pro Tempore.

#### SECOND READING

SENATE BILL NO. 6015, by Senators Murray, Delvin and Marr

Establishing the director of commercialization and innovation within the office of the governor. Revised for 1st Substitute: Creating the position of the governor's adviser on commercialization and innovation within the office of the governor.

#### MOTION

On motion of Senator Murray, Second Substitute Senate Bill No. 6015 was substituted for Senate Bill No. 6015 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Murray moved that the following striking amendment by Senators Murray, Kastama and Zarelli be adopted:

Strike everything after the enacting clause and insert the

following:

**"NEW SECTION. Sec. 1.** (1) Washington state is fortunate to have a dynamic technology industry sector that benefits from vibrant global demand for its output and that helps drive the state's economy. Washington state is uniquely positioned to shape its future success in innovation in the technology sectors of life sciences and high technology. Nearly every state in the nation is competing to develop a strong innovation economy. Washington has world-class research institutions, entrepreneurial spirit and talent, an actively collaborative community, and an existing foundational sector.

(2) To leverage its potential, the state must actively work to create and ensure a supportive environment that enables entrepreneurial people and companies to convert their innovative ideas into marketable new products and services. Providing such an environment would:

(a) Solidify Washington state as a global hotbed of knowledge and technology commercialization;

(b) Create more highly rewarding and well-paying careers for Washington's citizens;

(c) Grow more companies in new and far-reaching markets;

(d) Renew traditional industries through value-added technology adaptation; and

(e) Generate solid returns for Washington state.

**NEW SECTION. Sec. 2.** (1) The department of community, trade, and economic development, in consultation with life sciences trade and technology trade associations, shall review how to best promote and grow innovation in the development and commercialization of proprietary technology in: (a) Life sciences, such as medical devices and biotechnology, including biofuels and alternative clean energy; and (b) information technology, including hardware, software, and internet infrastructure, that address high potential emerging and growing markets.

(2) The department of community, trade, and economic development, in consultation with life sciences trade and technology trade associations, shall take the following actions:

(a) Investigate targeted investment strategies to advance commercialization and innovation at the preseed and seed stage of companies in Washington state;

(b) Monitor and mitigate state policies, bills, and fiscal affairs related to life sciences and technology innovation to ensure competitive growth of the industry; and

(c) Work with the Washington economic development commission to align the following with the state's comprehensive economic development plan:

(i) Overall strategies and direction of state government activities related to life sciences and technology innovation;

(ii) The state's technology-based economic development efforts, making sure the necessary infrastructure is in place to assist companies at every stage of the business life cycle;

(iii) Technology transfer and commercialization from the state's public research universities;

(iv) Chart the course for strategy implementation, tactics, and setting high expectations for continuous high technology business and employee growth in Washington state;

(v) Conduct market analysis and competitive review; and

(vi) Collaborate with industry representatives and others to increase the amount of local or regional investment capital available for early stage investments in Washington companies.

(3) The department of community, trade, and economic development shall report its findings and recommendations to the governor and legislature by December 1, 2009."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Murray, Kastama and Zarelli to Second Substitute Senate Bill No. 6015.

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

## MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "directing the department of community, trade, and economic development to review commercialization and innovation in the life sciences and technology sectors; and creating new sections."

## MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6015 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

## MOTION

On motion of Senator Brandland, Senators Benton, Holmquist, Pflug and Zarelli were excused.

## MOTION

On motion of Senator Marr, Senators Brown and Prentice were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6015.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6015 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator McCaslin

Excused: Senator Pflug

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6015, 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.

## PERSONAL PRIVILEGE

Senator Kastama: "Thank you Madam President. The members may have noticed that for some reason this week the Pages happen to be a little bit more efficient, little bit more timely, effective and actually delivering any of the things that you ask them to deliver. They seem to be a little bit more polite, not that they're not polite in the past but they just tend to polite. Well, it just happens to be, well, maybe a coincidence that my daughter, my oldest daughter, Anna Laura, happens to be a Page this week. I want to introduce everyone to her. She happens to be over here. Madam President if you don't mind if I have her

stand? I want to thank all the members for saying nice things about me this week, I think it will come in very handy. I also want to say that I am very proud of her. Anna Laura goes to the School of the Arts in Tacoma, she participates in the robotics competition and recently participated that in Portland. In fact if you see this little, thank you, very much Madam President. The little button says 'Soda bots on it.' I am very proud of my daughter. Thanks."

The President assumed the chair.

## SECOND READING

SENATE BILL NO. 5173, by Senators Shin, Fairley, Kastama, Sheldon, McAuliffe, Brown, Pridemore, Delvin, Hobbs, McDermott, Jarrett, Kilmer, Jacobsen and Kohl-Welles

Authorizing the regional universities to confer honorary doctorate degrees.

The measure was read the second time.

## MOTION

On motion of Senator Shin, the rules were suspended, Senate Bill No. 5173 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5173.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5173 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Murray

Excused: Senator Pflug

SENATE BILL NO. 5173, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Regala, Senator Murray was excused.

## SECOND READING

SENATE BILL NO. 5678, by Senator Hatfield

Regarding the use of milk products for animal food consumption.

## MOTIONS

On motion of Senator Hatfield, Substitute Senate Bill No. 5678 was substituted for Senate Bill No. 5678 and the substitute bill was placed on the second reading and read the second time.

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On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 5678 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5678.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5678 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Holmquist

Excused: Senators Murray and Pflug

SUBSTITUTE SENATE BILL NO. 5678, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5804, by Senators Keiser, Franklin, Kohl-Welles and Kline

Setting forth the circumstances under which a person qualifies for benefits when voluntarily leaving part-time work.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 5804 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5804.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5804 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Murray and Pflug

SENATE BILL NO. 5804, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5110, by Senators Honeyford, Schoesler, McCaslin, Hewitt, Kohl-Welles, McDermott and Holmquist

Allowing spas, wedding boutiques, and art galleries to serve wine to their customers who are twenty-one years of age or older. Revised for 1st Substitute: Allowing spas, wedding boutiques, and art galleries to serve wine or beer to their customers who are twenty-one years of age or older.

## MOTION

On motion of Senator Honeyford, Substitute Senate Bill No. 5110 was substituted for Senate Bill No. 5110 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford and Kohl-Welles be adopted.

On page 1, line 7, after "a" strike "spa,"

On page 1, line 8, after "boutique" strike ","

On page 1, line 11, after "beer, and" strike "the"

On page 1, line 12, after "beer" strike all material through "completed" on line 14, and insert "served or consumed shall be purchased from a Washington state licensed retailer or a Washington state liquor store or agency at full retail price. A wedding boutique or art gallery offering wine without charge may not advertise the service of complimentary wine or beer and may not sell wine or beer in any manner. Any employee involved in the service of wine or beer must complete a board-approved limited alcohol server training program"

Beginning on page 1, line 18, strike all material through "equipment." on page 2, line 3

Reletter the remaining subsection consecutively.

On page 2, line 5, after "business" strike "that specializes" and insert "primarily engaged"

On page 2, beginning on line 6, strike all of section 2

Senators Honeyford and Kohl-Welles spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Honeyford and Kohl-Welles on page 1, line 7 to Substitute Senate Bill No. 5110.

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

## MOTION

On motion of Senator Honeyford, the following title amendment was adopted:

On page 1, beginning on line 1 of the title, after "Relating to" strike all material through "RCW." on line 3, and insert "allowing wedding boutiques and art galleries to serve wine or beer to their customers who are twenty-one years of age or older; and adding a new section to chapter 66.12 RCW."

## MOTION

On motion of Senator Haugen, Senator Prentice was excused.

## MOTION

On motion of Senator Honeyford, the rules were suspended, Engrossed Substitute Senate Bill No. 5110 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Honeyford spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5110.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5110 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Hargrove, Morton and Roach

Excused: Senators Pflug and Prentice

ENGROSSED SUBSTITUTE SENATE BILL NO. 5110, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5780, by Senators Tom and Brandland

Establishing chapter 46.55 RCW as the exclusive remedy for any claims resulting from the impoundment of a motor vehicle. Revised for 1st Substitute: Establishing chapter 46.55 RCW as the exclusive remedy for certain claims resulting from the impoundment of a motor vehicle.

## MOTIONS

On motion of Senator Tom, Substitute Senate Bill No. 5780 was substituted for Senate Bill No. 5780 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Tom, the rules were suspended, Substitute Senate Bill No. 5780 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5780.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5780 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Pflug and Prentice

SUBSTITUTE SENATE BILL NO. 5780, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6000, by Senators Fraser, Benton, Tom and Roach

Modifying real estate disclosure requirements regarding homeowners' associations.

## MOTIONS

On motion of Senator Fraser, Substitute Senate Bill No. 6000 was substituted for Senate Bill No. 6000 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fraser, the rules were suspended, Substitute Senate Bill No. 6000 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6000.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6000 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Pflug and Prentice

SUBSTITUTE SENATE BILL NO. 6000, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## REMARKS BY THE PRESIDENT

President Owen: "Ladies and Gentlemen of the Senate. If I can have your attention for just a moment. We have the great privilege and honor of having a very special guest with us today. He is the Attorney General of Ireland. Along with him is the, excuse me, Attorney General of Ireland that is Mr. Paul Gallagher. Along with him, joining him with me up here today is Vice Consul General of Ireland who is in San Francisco, Mr. Barry O'Brien. They represent the state of Washington there and then in our gallery as well special Assistant to the Attorney General, Mr. Francis Kerrin is with us as well as the Treasury of the Irish Heritage Club of Seattle, Mr. John Keen. It would be a great honor for this chamber Mr. Attorney General if you would say a few words before the members. Mr. Attorney General Paul Gallagher."

## REMARKS BY ATTORNEY GENERAL OF IRELAND

Attorney General Paul Gallagher: "Lt. Governor, Senators, it's a truly enormous privilege for me to be here today to be welcomed in your midst with such an open and heartfelt welcome to feel really special and it's an even greater privilege to have the opportunity of saying a few words to you in your wonderful chamber. I know how busy you are today, what a crucial day it is in the Legislative calendar so I'm not going to make a long speech you'll be glad to hear. I want to speak briefly about some of the connections between Ireland and the United States and Ireland and the State of Washington. It's perhaps a feature that as far back as 1772, before the United States was born your great statesman and inventor and scientist Benjamin Franklin spoke in the Irish Parliament. In 1780, again before your constitution was introduced, George Washington, General George Washington as he then was, inaugurated the seventeenth of March as a holiday in honor of the great exploits

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of the Irish soldiers during the revolutionary war of independence. I was delighted to learn that somebody from my own Country, Kerry, in Ireland, was one of the first settlers to come to Washington. Mr. Denny and in my home town in Tralee we have a street called Denny Street and his great grandfather used to live in Tralee and his descendants came to America and the great grandson came to Washington. So it's a special connection but its perhaps nothing to the connection that exist at a spiritual level between Ireland and the United States, not just in terms of Irish-Americans, forty-one million Americans came Irish ancestry and that is a wonderful connection. It's a wonderful privilege to have that connection to the greatest country in the world. But of even more importance is the feeling that our connection with America stretches beyond the Irish-American community. It is as if we have a synergy of spiritual of empathy and certainly any interaction I have ever had with the United States in my professional life as a lawyer and in other aspects of my life. I have always felt at home here. The people here are a very special and wonderful people who always welcome us. Who are very dynamic. Who over the years have contributed tremendously not only to Ireland the world at large but in particular we acknowledge in Ireland the enormous contribution of the United States which has been a force for great goods and, as our taoiseach was addressing the joint houses of Congress last year our former taoiseach acknowledged, the incredible contribution of the United States to achieving a situation of peace in our country. And despite the unfortunate killings over the last few days, I can reaffirm that Ireland is at peace and the unity by which the killings were condemned was fantastic to behold from all parts of the community, these rogue killers who were trying to destabilize the process were roundly condemned and it's quite clear these were people who have no standing, no connection with the Irish people, with Irish democracy but were people acting from base interests and trying to do damage to something that, in my view, is now damage thanks to the great work that has been done in the last ten years and the great contribution from the United States. And, in Ireland at the moment we're wrestling with significant economic problems like the rest of the world and I know you have issues here and a significant budget deficit as we have and now is a time, I think we all agree, a time for tough decisions, a time to believe that we can come through the present adversity as I have no doubt we will all do. A time for the spirit of, that has set America apart, the spirit that you can do anything, achieve anything, mend anything and we in Ireland like to believe that that is a spirit that we ourselves are developing that is something too that we will overcome and that we all in five years time, hopefully a shorter period, look back and say it was privilege to be involved in doing something for the public and for the public good in these difficult times and getting things right again. And, I'd like to pay particular tribute to the State of Washington and it's connection with Ireland the enormous contribution that it has made to Ireland. It's great companies and the employment that they have provided in our country. And, also to note that Ireland is doing it's share in this reciprocal trades think American multi-nationals engage ninety-five thousand employees in our country and Irish companies engage eighty thousand employees in this county. We're in the top ten foreign investors in this county and it is this mutual trade, this mutual support, the mutual recognition that we're all in this together and we'll all come out of it together, that is absolutely vital to remember. And I'd like to stop now because I know you've much to do and to thank you again for what has been an absolutely wonderful opportunity and honor and a great privilege to come to the great state of Washington. I'm looking forward to the next few days to the celebration of St. Patrick's Day. I hope you'll be better behaved than the revolutionary soldiers were when George Washington held the first St. Patrick's Day holiday. We'll try and be at our best behavior and cause no trouble for the state officials. Thank you very much indeed and thank you Lieutenant Governor."

SECOND READING

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SENATE JOINT RESOLUTION NO. 8209, by Senators Zarelli, Brown, Pflug, Carrell, Parlette, Swecker, Hewitt, Morton, Delvin, Stevens, King, Schoesler, Brandland and Becker

Requiring extraordinary revenue growth to be transferred to the budget stabilization account.

The measure was read the second time.

MOTION

On motion of Senator Zarelli, the rules were suspended, Senate Joint Resolution No. 8209 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Zarelli and Brown spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Senate Joint Resolution No. 8209.

ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8209 and the resolution passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Fairley, Fraser, Jacobsen, Kline, Kohl-Welles, McAuliffe and McDermott

Excused: Senator Pflug

SENATE JOINT RESOLUTION NO. 8209, having received the constitutional majority, was declared passed.

SECOND READING

SENATE BILL NO. 5400, by Senators Tom, Berkey, Benton, McCaslin, Shin, Roach and Kline

Regulating reverse mortgage lending practices.

MOTION

On motion of Senator Tom, Substitute Senate Bill No. 5400 was substituted for Senate Bill No. 5400 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 14, after line 10, insert the following:

"Sec. 14. RCW 19.16.250 and 2001 c 217 s 5 and 2001 c 47 s 2 are each reenacted and amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

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(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (9)(e) of this section.

(4) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain the name of such person and provide this name to the debtor;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or its behalf or on the behalf of a customer or assignor;

(vi) Any other charge or fee that the licensee is attempting to collect on his or its own behalf or on the behalf of a customer or assignor.

(9) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim: PROVIDED, That if the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall upon receipt of written notice from the debtor that any part of the claim is disputed, forward a copy of such written notice to the credit reporting bureau;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(10) Threaten the debtor with impairment of his credit rating if a claim is not paid.

(11) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or it again receives notification in writing that an attorney is representing the debtor.

(12) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable

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hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week;

(b) It is made with a debtor at his or her place of employment more than one time in a single week;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.;

(d) It is made in a manner that does not clearly identify the communication, from the outset, as coming from a licensee acting in its capacity.

(13) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(14) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(15) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(16) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

(17) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(18) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(19) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except as noted in subsection (18) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(20) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or

series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packaging debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the series of identified checks, automated clearinghouse transactions on a demand deposit account, or written instruments and initiate additional oral contact for those debts that the debtor acknowledges do not arise from stolen or fraudulently created checks or written instruments; (iv) the oral contact is in the context of a judicial, administrative, arbitration, mediation, or similar proceeding; or (v) the oral contact is made for the purpose of investigating, confirming, or authenticating the information received from the debtor, to provide additional information to the debtor, or to request additional information from the debtor needed by the licensee to accurately record the debtor's information in the licensee's records."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Ranker and Benton on page 14, after line 10 to Substitute Senate Bill No. 5400.

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

#### MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "collection of debt; amending RCW 31.04.015 and 31.04.115; reenacting and amending RCW 19.16.250; and adding new sections to chapter 31.04 RCW."

## MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Substitute Senate Bill No. 5400 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

## MOTION

On motion of Senator Brandland, Senator Delvin was excused.

## MOTION

On motion of Senator Kauffman, Senator Oemig was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5400.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5400 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Jarrett

Excused: Senator Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 5400, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5035, by Senators Hobbs, Swecker, Marr, Roach, Kastama, Kauffman, Kilmer, Hatfield, McAuliffe and Haugen

Improving veterans' access to services.

## MOTIONS

On motion of Senator Hobbs, Substitute Senate Bill No. 5035 was substituted for Senate Bill No. 5035 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 5035 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senator Jarrett was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5035.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5035 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Jarrett and Pflug

SUBSTITUTE SENATE BILL NO. 5035, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5219, by Senators Carrell, Regala, Hargrove, Kline, Brandland, Swecker, Stevens and King

Creating a legislative task force to address housing for individuals at a high risk of being homeless. Revised for 1st Substitute: Establishing a focus group to examine the need to provide housing for certain populations at risk of being homeless.

## MOTIONS

On motion of Senator Carrell, Substitute Senate Bill No. 5219 was substituted for Senate Bill No. 5219 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Carrell, the rules were suspended, Substitute Senate Bill No. 5219 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Carrell and Hargrove spoke in favor of passage of the bill.

## POINT OF INQUIRY

Senator Franklin: "Would Senator Carrell yield to a question? Thank you Senator Carrell. There is a homeless task force that has been working now for quite some time and I know in Pierce is the same. How does this, would you will be doing interface with the homeless task force that's now working?"

Senator Carrell: "Well, they're going to be welcomed into working on this. I think its time when we have little money to really look at what we're doing at the Federal level for homelessness, what we're doing at the state and local level and bring everybody together and see where overlaps may exist, where gaps may exist and to really have a chance to look at it not piece meal but comprehensively and that's what the purpose of this particular is."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5219.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5219 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King,



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Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Brown

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5219, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Ranker was excused.

SECOND READING

SENATE BILL NO. 5303, by Senators Hobbs, Schoesler, Holmquist, Kilmer, Fraser and Roach

Transferring public employees' retirement system plan 2 members to the school employees' retirement system plan 2.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Senate Bill No. 5303 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5303.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5303 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Pflug and Ranker

SENATE BILL NO. 5303, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5528, by Senator Hargrove

Making technical nonsubstantive corrections to the initial point of contact program established in chapter 496, Laws of 2007.

MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5528 was substituted for Senate Bill No. 5528 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5528 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5528.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5528 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Pflug and Ranker

SUBSTITUTE SENATE BILL NO. 5528, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5519 was not substituted for Senate Bill No. 5519 and the substitute bill was not adopted.

SECOND READING

SENATE BILL NO. 5519, by Senators Hargrove, Stevens and Regala

Reforming competency evaluation and restoration procedures.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"PART I

COMPETENCY EVALUATION AND RESTORATION

Sec. 101. RCW 10.77.060 and 2004 c 9 s 1 are each amended to read as follows:

(1)(a) Whenever ~~((a defendant has pleaded not guilty by reason of insanity, or))~~ there is reason to doubt ~~((his or her))~~ a defendant's competency, the court on its own motion or on the motion of any party shall ~~((either appoint or))~~ request the secretary to designate ~~((at least two))~~ a qualified expert~~(s)~~ or professional person~~(s, one of whom shall be approved by the prosecuting attorney, to examine and report upon the mental condition))~~ to evaluate the competency of the defendant. The signed order of the court shall serve as authority for the ~~((experts))~~ evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical

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condition of the defendant. ~~((At least one of the experts or professional persons appointed shall be a developmental disabilities professional if the court is advised by any party that the defendant may be developmentally disabled. Upon agreement of the parties, the court may designate one expert or professional person to conduct the examination and report on the mental condition of the defendant. For purposes of the examination, the court may order the defendant committed to))~~

~~(b) If the defendant is being held in a jail or detention facility, the court shall order the evaluation to take place in the jail or detention facility. The order shall state that the defendant may be transported to a state hospital or other ~~((suitably))~~ secure ~~((public or private))~~ mental health facility ~~((for a period of time necessary to complete the examination, but not to exceed fifteen days from the time of admission to the facility. If the defendant is being held in jail or other detention facility, upon agreement of the parties, the court may direct that the examination be conducted at the jail or other detention facility.~~~~

~~—(b) When a defendant is ordered to be committed for inpatient examination under this subsection (1), the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the expert or professional persons regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety)) at the request of the evaluator, if the evaluator determines that such action is necessary in order to complete an accurate evaluation of the defendant. This request shall be provided in writing to the jail or detention facility, court, and representatives of both parties, and the reason for the request shall be documented in the evaluation report. No further order of the court shall be necessary to effectuate transportation of the defendant under this subsection.~~

~~(c) The prosecutor shall send a copy of the order for evaluation to the secretary and a copy of the charging document, certification of probable cause, police report, and a summary of the defendant's criminal history. These documents shall be provided as soon as possible, and no later than three business days after the order is signed. The court or either party may provide additional information to the secretary which it reasonably deems to be of assistance to the evaluation, unless such action would infringe upon ethical duties.~~

~~(d) The report of an evaluation of a defendant who is being held in custody at a jail or detention facility shall be completed within twenty-one days from the time of receipt by the secretary of the documents specified in (c) of this subsection, unless transportation of the defendant to a hospital or secure mental health facility is necessary under (b) of this subsection, in which case the secretary shall authorize transportation of the defendant as soon as possible, and within seven days of the request. A defendant transported under (b) of this subsection may be admitted to a hospital or secure mental health facility for only the length of time necessary to complete an evaluation, and for no longer than fifteen days.~~

~~(e) If at any point the evaluator becomes aware that the defendant may have a developmental disability, or if it appears that the characteristics of developmental disability may be a significant factor in the defendant's ability to participate in the criminal proceeding, the evaluation shall be performed by or in consultation with a developmental disabilities professional.~~

~~(f) For good cause, the court may extend the time period for completion of an evaluation.~~

~~(g) Upon agreement by the parties, the court may appoint a qualified expert or professional person to evaluate the~~

competency of the defendant instead of requesting the secretary to designate an evaluator. Only an evaluator designated by the secretary may request that the defendant be transported to a state hospital for evaluation under (b) of this subsection.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the ~~((examination))~~ evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the ~~((court appointed experts or professional persons))~~ evaluator. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the ~~((examination))~~ evaluation shall include the following:

(a) A description of the nature of the ~~((examination))~~ evaluation;

(b) A diagnosis of the mental condition of the defendant;

(c) ~~((If the defendant suffers from a mental disease or defect, or is developmentally disabled;))~~ An opinion as to competency;

(d) ~~((If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, an opinion as to the defendant's sanity at the time of the act;~~

~~—(c) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;~~

~~—(f)) An opinion as to whether the defendant should be evaluated by a ~~((county))~~ designated mental health professional under chapter 71.05 RCW ~~((, and an opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions)).~~~~

(4) The secretary may execute such agreements as appropriate and necessary to implement this section.

Sec. 102. RCW 10.77.065 and 2008 c 213 s 1 are each amended to read as follows:

(1)(a)(i) ~~((The facility conducting the evaluation))~~ An evaluator appointed under RCW 10.77.060 or an expert or professional person appointed under section 106 of this act shall provide ~~((its))~~ a report and recommendation to the court in which the criminal proceeding is pending. A copy of the report and recommendation shall be provided to the designated mental health professional, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(ii) of this subsection. Upon request, the ~~((facility))~~ secretary shall also provide copies of any source documents relevant to the evaluation to the designated mental health professional. The report and recommendation shall be provided not less than twenty-four hours preceding the transfer of the defendant to the correctional facility in the county in which the criminal proceeding is pending.

(ii) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the regional support network, a professional person at the regional support network to receive the report and recommendation.

(iii) When a defendant is transferred to ~~((the facility conducting the))~~ a hospital or other secure facility for an evaluation, or upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator or the facility conducting the evaluation of the name of the professional person, or person

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designated under (a)(ii) of this subsection to receive the report and recommendation.

(b) If the ~~(facility concludes, under RCW 10.77.060(3)(f), the person should be kept under further control, an evaluation shall be conducted of such person)~~ report of an evaluation performed under RCW 10.77.060, 10.77.084(5), or section 106 of this act recommends that a defendant in custody should be evaluated by a designated mental health professional under chapter 71.05 RCW~~(-)~~, the court shall order an evaluation be conducted ~~((by the appropriate designated mental health professional: (i) prior to the individual's release from confinement ((for such person who is convicted, if sentenced to confinement for twenty-four months or less; (ii) for any person who is acquitted; or (iii) for any person: (A) Whose charges are dismissed pursuant to RCW 10.77.086(4); or (B) whose nonfelony charges are dismissed)) following any conviction, dismissal, or acquittal, unless the individual is sentenced to confinement for more than twenty-four months.~~

(2) ~~((The))~~ A designated mental health professional conducting an evaluation under subsection (1)(b) of this section shall ~~((provide written notification))~~ notify the persons identified in subsection (1)(a) of this section within twenty-four hours ~~((of the results of the determination))~~ as to whether ~~((to commence proceedings))~~ detention was initiated under chapter 71.05 RCW. ~~((The notification shall be provided to the persons identified in subsection (1)(a) of this section.))~~

(3) The ~~((prosecuting attorney))~~ petitioner in a proceeding initiated under subsection (2) of this section shall provide a copy of the results of ~~((any proceedings commenced by the designated mental health professional under subsection (2) of this section to the facility conducting the evaluation under this chapter))~~ the proceeding to the secretary.

(4) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may ~~((also))~~ be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

Sec. 103. RCW 10.77.084 and 2007 c 375 s 3 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report ~~((as provided in))~~ under RCW 10.77.060 or section 106 of this act, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section. The court shall order the defendant to undergo a period of treatment for restoration of competency within the time limits established by RCW 10.77.086 and 10.77.088 and the requirements of this section.

(b) ~~((A defendant found incompetent shall be evaluated at the direction of the secretary and a determination made whether the defendant is an individual with a developmental disability. Such evaluation and determination shall be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.~~

~~((i) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant shall have the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation shall be sent to the program.~~

~~((A) The program shall be separate from programs serving persons involved in any other treatment or habilitation program.~~

~~((B) The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts.~~

~~((C) The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.~~

~~((ii) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.~~

~~((iii) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.~~

~~((e)) At the end of ((the mental health treatment and)) a competency restoration period ordered under (a) of this subsection, or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing. If, after notice and hearing, the court finds that competency has been restored, the stay entered under (a) of this subsection shall be lifted. ~~((If competency has not been restored, the proceedings shall be dismissed.))~~ If the court ~~((concludes))~~ finds that competency has not been restored, but that further treatment within the time limit~~((s))~~ established by RCW 10.77.086 ~~((or 10.77.088))~~ is likely to restore competency, the court may order ~~((that))~~ the defendant to undergo an additional period of treatment for purposes of competency restoration ~~((be continued. Such treatment may not extend beyond the combination of time provided for in RCW 10.77.086 or 10.77.088.))~~~~

~~((f)) (c) If at any time ((during the proceeding)) the court finds, following notice and hearing, ((a)) that the defendant is not competent and is either not likely to regain competency, or no current or further period of competency restoration treatment is allowable under RCW 10.77.086 or 10.77.088, the ~~((proceedings shall be dismissed))~~ court shall dismiss the charges without prejudice and ~~((the defendant shall be evaluated for civil commitment proceedings))~~ enter one of the following orders:~~

~~((i) If the charge was a felony, and was a serious offense as defined by RCW 10.77.092, the court shall detain the defendant and order the defendant to be transferred to a state hospital or other suitably secure mental health facility for purpose of evaluation under chapter 71.05 RCW.~~

~~((ii) If the charge was a nonfelony, and was a serious offense as defined by RCW 10.77.092, and the defendant was in custody and not on conditional release at the time of dismissal, the court may detain the defendant and order the defendant to be transferred to an evaluation and treatment facility for the purpose of evaluation under chapter 71.05 RCW. The defendant may be detained in jail for no longer than three days, excluding holidays, prior to transfer or release, and subsequently may be detained by the evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, prior to the filing of a petition under chapter 71.05 RCW. The secretary may consent to receive the defendant at a state hospital in lieu of transfer to an evaluation and treatment facility. The defendant may be screened prior to transfer to determine whether civil commitment criteria are met.~~

~~((iii) If the charge was not a serious offense as defined by RCW 10.77.092, or if the charge was a nonfelony and the defendant was on conditional release at the time of dismissal, the court may order the defendant to undergo an evaluation by a designated mental health professional, and shall do so if required by RCW 10.77.065(1)(b). A defendant who is in custody, or who refuses to cooperate with the evaluation, may be detained in custody for up to twelve hours for this evaluation.~~

~~((d) Notwithstanding any other limitations, a defendant who has multiple criminal charges may undergo competency restoration treatment for all charges for the longest time period allowable for any of the charges.~~

~~((2) If the defendant is referred to the designated mental~~

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health professional for consideration of ~~((initial))~~ detention ~~((proceedings))~~ under chapter 71.05 RCW ~~((pursuant to this chapter))~~, the designated mental health professional shall provide ~~((prompt written))~~ notification of ~~((the results of the determination whether to commence initial detention proceedings under chapter 71.05 RCW and))~~ whether the ~~((person))~~ defendant was detained according to RCW 10.77.065(2). ~~((The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.))~~

(3) ~~((The fact))~~ A finding that the defendant is ~~((unfit to proceed))~~ not competent does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(4) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(5) At or before the conclusion of any ~~((commitment))~~ competency restoration period provided for by ~~((this section))~~ RCW 10.77.086 or 10.77.088, the facility providing evaluation and treatment shall provide to the court a written report ~~((of examination))~~ which meets the requirements of RCW 10.77.060(3).

Sec. 104. RCW 10.77.086 and 2007 c 375 s 4 are each amended to read as follows:

~~((+))~~ ~~((the))~~ a defendant is charged with a felony and determined to be incompetent~~(:);~~

~~((1))~~ ~~((he or she))~~ the defendant has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, or has been determined to be unlikely to regain competency ~~((pursuant to RCW 10.77.084(1)(c)))~~, but in any event for a period of no longer than ninety days, the court~~(:~~

~~((a))~~ shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment~~(: or~~

~~((b))~~ ~~May alternatively order the defendant to undergo evaluation and treatment at some other facility as determined by the department, or under the guidance and control of a professional person).~~

~~((2))~~ On or before expiration of the initial ~~((ninety-day))~~ period of commitment under subsection (1) of this section, the secretary shall provide the court and the parties with a report in accordance with RCW 10.77.060(3). The secretary shall return the defendant to court ~~((shall conduct))~~ for a hearing, at which ~~((it))~~ the court shall determine by a preponderance of the evidence whether or not the defendant is incompetent as provided by RCW 10.77.084(1)(b).

~~((3))~~ If, following a hearing under subsection (2) of this section, the court finds ~~((by a preponderance of the evidence))~~ that ~~((a))~~ the defendant ~~((charged with a felony is))~~ remains incompetent, the court ~~((shall have the option of extending the))~~ may order ~~((of commitment or alternative))~~ a second period of competency restoration treatment for an additional ~~((ninety-day))~~ period~~(: but))~~ of up to ninety days.

~~((a))~~ If a second period of competency restoration treatment would cause the defendant to be held in custody for a longer period than the defendant would have been likely to spend in custody if the defendant were convicted and sentenced to the top of the defendant's standard sentencing range, the court shall not order a second period of competency restoration treatment unless it finds by a preponderance of the evidence following a hearing that further competency restoration treatment is in the public interest due to particular circumstances related to the nature or impact of the alleged offense, or the criminal or

treatment history of the defendant.

~~((b))~~ If treatment is extended, the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second ninety-day period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury.

~~((c))~~ No extension shall be ordered for a second ninety-day period, nor for any subsequent period as provided in subsection (4) of this section, if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

~~((4))~~ ~~((For persons charged with a felony, at the hearing upon the expiration of the second ninety-day period or at the end of the first ninety-day period, in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and either civil commitment proceedings shall be instituted or the court shall order the release of the defendant. The criminal charges shall not be dismissed.))~~ If the court or jury finds that the defendant remains incompetent following a second period of competency restoration treatment under subsection (3) of this section, the court may order a third and final period of competency restoration treatment only if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. A third period of competency restoration treatment shall not be ordered if the allegations against the defendant do not include one or more charges which are serious offenses as defined by RCW 10.77.092.

Sec. 105. RCW 10.77.088 and 2007 c 375 s 5 are each amended to read as follows:

~~((+))~~ ~~((a))~~ If ~~((the))~~ a defendant is charged with a nonfelony ~~((crime which))~~ and determined to be incompetent:

~~((1))~~ If at least one of the charges is a serious offense as ~~((identified in))~~ defined by RCW 10.77.092 ~~((and found by the court to be not competent))~~, then the court shall order the secretary to place the defendant:

~~((+))~~ ~~((a))~~ At a secure mental health facility in the custody of the department or an agency designated by the department for mental health treatment and restoration of competency. The placement shall not exceed fourteen days in addition to any unused time of the evaluation under RCW 10.77.060(1)(d). The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060(1)(d) shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility; or

~~((+))~~ ~~((b))~~ On conditional release for up to ninety days for mental health treatment and restoration of competency~~(: or~~

~~((+))~~ ~~((c))~~ Any combination of this subsection:

~~((b))~~ ~~((i))~~ If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated mental health professional within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional:

~~((+))~~ ~~((ii))~~ If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter

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~~71.05 RCW. The seventy-two-hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period).~~

~~(2) If the defendant is charged with a nonfelony ((~~erime~~)) that is not a serious offense as defined in RCW 10.77.092(-~~—~~The court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated mental health professional to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings)), the court shall not order competency restoration treatment, and shall instead enter an order under RCW 10.77.084(1)(c).~~

NEW SECTION. Sec. 106. A new section is added to chapter 10.77 RCW to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or has advised the court or a party of his or her intention to rely upon a defense of diminished capacity and endorsed an expert witness who will testify in support of a diminished capacity defense, the court, on motion of the prosecuting attorney, shall either appoint or request the secretary to designate a qualified expert or professional person to evaluate and report upon the mental condition of the defendant. The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant.

(b) The court shall not order the secretary to perform an evaluation under this section for reasons other than those specified in (a) of this subsection.

(c) A defendant who is transported to a state hospital or other suitably secure mental health facility for an evaluation under this section may be admitted for only the length of time necessary to complete the evaluation, and for no longer than fifteen days.

(d) The prosecutor shall send the order for evaluation to the secretary along with a copy of the charging document, certification of probable cause, police report, and a summary of the defendant's criminal history. The court or either party may provide additional information to the secretary which it reasonably deems to be of assistance to the evaluation, unless such action would infringe upon ethical duties.

(2) The report of the evaluation shall include the following:

- (a) A description of the nature of the evaluation;
- (b) A diagnosis of the mental condition of the defendant;
- (c) An opinion as to competency;
- (d) An opinion as to the defendant's sanity at the time of the act;

(e) An opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions;

(f) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(g) An opinion as to whether the defendant should be evaluated by a designated mental health professional for civil commitment under chapter 71.05 RCW prior to release from custody.

(3) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the evaluator. The defendant's expert

or professional person has the right to file his or her own report following the guidelines of subsection (2) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

NEW SECTION. Sec. 107. A new section is added to chapter 10.77 RCW to read as follows:

Statements made by a defendant during a competency evaluation, competency hearing, or competency restoration treatment shall not be admissible in the state's case in chief. After the state's case in chief, those statements may be admissible according to the rules of evidence if a mental defense such as insanity or diminished capacity is asserted or to impeach testimony by the defendant.

NEW SECTION. Sec. 108. A new section is added to chapter 10.77 RCW to read as follows:

Any defendant placed in the custody of the secretary for competency restoration treatment shall be evaluated at the direction of the secretary as soon as possible and a determination made whether the defendant is an individual with a developmental disability.

(1) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant has the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation shall be sent to the program.

(a) The program shall be separate from programs serving persons involved in any other treatment or habilitation program.

(b) The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts.

(c) The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.

(2) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.

(3) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

NEW SECTION. Sec. 109. A new section is added to chapter 10.77 RCW to read as follows:

(1) Whenever a jail or detention center receives notice of a request or order requiring transfer of a defendant to a state hospital or other medical facility under RCW 10.77.060 or 10.77.084, the jail or detention center shall provide all medical information in its possession necessary for the admission of the defendant to the secretary within three days. The secretary shall not be responsible under subsection (2) of this section for unreasonable delays in transmission of medical information.

(2) If the secretary fails to conduct or complete a competency evaluation within the time limits prescribed by RCW 10.77.060(1)(d), the court may conduct a show cause hearing upon the motion of any party to determine why the evaluation was not conducted or completed within the allotted time. An order to show cause shall be set forth in writing and shall be served upon the secretary. If the court finds that time limits were exceeded by the secretary without good cause, it may set a fixed time for the completion of the evaluation and may order the secretary to reimburse expenses to the jail for any excess days at a rate of ninety dollars per day. The hearing may include review of a corrective action plan entered under section 110(7) of this act. Failure to conduct or complete a competency evaluation within time limitations shall not be cause for dismissal of criminal charges.

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(3) A jail is not civilly liable for delays by the secretary in providing competency evaluation services under RCW 10.77.060, or for the release of an individual from custody according to the requirements of RCW 10.77.084.

(4) Nothing in this section is intended to denigrate other rights retained by operators of jails or other parties.

**NEW SECTION. Sec. 110.** A new section is added to chapter 10.77 RCW to read as follows:

The department shall report annually to the legislature beginning October 1, 2010, concerning the waiting period for competency evaluations and competency restoration treatment during the past state fiscal year.

The report shall include:

(1) The number of competency evaluation referrals received, grouped by state hospital catchment;

(2) The average waiting period for competency evaluations, presented on a monthly basis, and grouped by state hospital catchment. The department shall separate competency evaluations which occur entirely in a jail or detention center from other competency evaluations. The waiting period measured shall be from the time the secretary receives the order for evaluation and other documents identified in RCW 10.77.060(1)(c) to the time of distribution of the evaluation report;

(3) The average waiting period for competency evaluations, presented on an annual basis, and itemized by county. The evaluations shall be separated and measured as in subsection (2) of this section;

(4) The average waiting period for inpatient competency restoration, presented on a monthly basis, and grouped by state hospital catchment. The waiting period measured shall be from the time the secretary receives the restoration referral to the time the defendant is transported to the state hospital, but shall not include any delay solely attributable to a failure by a jail or detention center to provide information required by section 109(1) of this act;

(5) The number of competency restoration treatment referrals received on an annual basis, grouped by state hospital catchment. This information shall be separated into nonfelony referrals, first ninety-day felony referrals, second ninety-day felony referrals, and final one hundred eighty-day felony referrals. The report shall include average length of stay information and the percentage of successful outcomes at each stage;

(6) The number of hearings held pursuant to section 109(2) of this act during the reporting period, grouped by state hospital catchment; and

(7) If the data indicates that the department has failed to comply with the time limits prescribed by RCW 10.77.060(1)(d) and 10.77.220, a description of a corrective action plan entered by the department to bring the department into compliance with these sections.

The department may include any additional information or subgroupings in the report that it determines to be appropriate.

## PART II TECHNICAL CHANGES

**Sec. 201.** RCW 10.77.163 and 2008 c 213 s 4 are each amended to read as follows:

(1) Before a person committed under this chapter is permitted temporarily to leave a treatment facility for any period of time without constant accompaniment by facility staff, the superintendent, professional person in charge of a treatment facility, or his or her professional designee shall in writing notify the prosecuting attorney of any county to which the person is released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision conditionally to release the person.

The notice shall be provided at least forty-five days before the anticipated release and shall describe the conditions under which the release is to occur.

(2) In addition to the notice required by subsection (1) of this section, the superintendent of each state institution designated for the custody, care, and treatment of persons committed under this chapter shall notify appropriate law enforcement agencies through the state patrol communications network of the furloughs of persons committed under RCW (~~(+0.77.086)~~) 10.77.084(1)(c) or 10.77.110. Notification shall be made at least thirty days before the furlough, and shall include the name of the person, the place to which the person has permission to go, and the dates and times during which the person will be on furlough.

(3) Upon receiving notice that a person committed under this chapter is being temporarily released under subsection (1) of this section, the prosecuting attorney may seek a temporary restraining order to prevent the release of the person on the grounds that the person is dangerous to self or others.

(4) The notice requirements contained in this section shall not apply to emergency medical furloughs.

(5) The existence of the notice requirements contained in this section shall not require any extension of the release date in the event the release plan changes after notification.

(6) The notice provisions of this section are in addition to those provided in RCW 10.77.205.

**Sec. 202.** RCW 71.05.280 and 2008 c 213 s 6 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of mental disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of mental disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW (~~(+0.77.086(+))~~) 10.77.084(1)(c), and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime; or

(4) Such person is gravely disabled.

**Sec. 203.** RCW 71.05.290 and 2008 c 213 s 7 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the

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willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c), then the professional person in charge of the treatment facility or his or her professional designee or the designated mental health professional may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

**Sec. 204.** RCW 71.05.300 and 2008 c 213 s 8 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated mental health professional. The designated mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the regional support network administrator, and provide a copy of the petition to such persons as soon as possible. The regional support network administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney and of his or her right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c), then the appointed professional person under this section shall be a developmental disabilities professional.

(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

**Sec. 205.** RCW 71.05.320 and 2008 c 213 s 9 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment: PROVIDED, That

(a) If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department.

(b) If the committed person has a developmental disability and has been determined incompetent pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c), and the best interests of the person or others will not be served by a less-restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified

for one hundred eighty-day treatment by the department. When appropriate and subject to available funds, treatment and training of such persons must be provided in a program specifically reserved for the treatment and training of persons with developmental disabilities. A person so committed shall receive habilitation services pursuant to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of persons with developmental disabilities. The department may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department. An order for treatment less restrictive than involuntary detention may include conditions, and if such conditions are not adhered to, the designated mental health professional or developmental disabilities professional may order the person apprehended under the terms and conditions of RCW 71.05.340.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment.

(3) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated mental health professional or developmental disabilities professional, files a new petition for involuntary treatment on the grounds that the committed person;

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder or developmental disability a likelihood of serious harm; or

(c) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability presents a substantial likelihood of repeating similar acts considering the charged criminal behavior, life history, progress in treatment, and the public safety; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to reprove that element. Such new petition for involuntary treatment shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional

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period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued treatment is filed and heard in the same manner as provided in this subsection. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment.

(4) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length.

**Sec. 206.** RCW 71.05.425 and 2008 c 213 s 10 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c) preceding commitment under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c) preceding commitment under RCW 71.05.280(3) or 71.05.320(3) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 71.05.390(18). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but

in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

**Sec. 207.** RCW 71.09.025 and 2008 c 213 s 11 are each amended to read as follows:

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020(16), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county where that person was charged, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW ~~((10.77.086(4)))~~ 10.77.084(1)(c); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to RCW 10.77.020(3).

(b) The agency shall provide the prosecutor with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of-state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the indeterminate sentence review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(2) This section applies to acts committed before, on, or after March 26, 1992.

(3) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(4) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services.

**Sec. 208.** RCW 71.09.030 and 2008 c 213 s 12 are each amended to read as follows:

When it appears that: (1) A person who at any time previously has been convicted of a sexually violent offense is about to be released from total confinement on, before, or after July 1, 1990; (2) a person found to have committed a sexually violent offense as a juvenile is about to be released from total



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confinement on, before, or after July 1, 1990; (3) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been released on, before, or after July 1, 1990, pursuant to RCW ~~((+0.77.086(+)))~~ 10.77.084(1)(c); (4) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released on, before, or after July 1, 1990, pursuant to RCW 10.77.020(3), 10.77.110 (1) or (3), or 10.77.150; or (5) a person who at any time previously has been convicted of a sexually violent offense and has since been released from total confinement and has committed a recent overt act; and it appears that the person may be a sexually violent predator, the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney may file a petition alleging that the person is a "sexually violent predator" and stating sufficient facts to support such allegation.

**Sec. 209.** RCW 71.09.060 and 2008 c 213 s 13 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under RCW 71A.12.230 may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(15)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to ~~((be))~~ be or has been released pursuant to RCW ~~((+0.77.086(+)))~~

10.77.084(1)(c), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW ~~((+0.77.086(+)))~~ 10.77.084(1)(c) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) The state shall comply with RCW 10.77.220 while confining the person pursuant to this chapter, except that during all court proceedings the person shall be detained in a secure facility. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

### PART III MISCELLANEOUS

NEW SECTION. **Sec. 301.** Part headings used in this act are not any part of the law."

Senators Hargrove and Brandland spoke in favor of adoption of the striking amendment.

#### MOTION

On motion of Senator Brandland, Senator Honeyford was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Senate Bill No. 5519.

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

#### MOTION

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

On page 1, line 2 of the title, after "procedures;" strike the remainder of the title and insert "amending RCW 10.77.060, 10.77.065, 10.77.084, 10.77.086, 10.77.088, 10.77.163, 71.05.280, 71.05.290, 71.05.300, 71.05.320, 71.05.425, 71.09.025, 71.09.030, and 71.09.060; adding new sections to chapter 10.77 RCW; and creating a new section."

#### MOTION

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On motion of Senator Hargrove, the rules were suspended, Engrossed Senate Bill No. 5519 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5519.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5519 and the bill passed the Senate by the following vote :Yeas, 44; Nays, 1; Absent, 2; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Jarrett, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senator Hatfield

Absent: Senators Keiser and Tom

Excused: Senators Honeyford and Pflug

ENGROSSED SENATE BILL NO. 5519, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

Pursuant to Rule 18, on motion of Senator Eide, Senate Bill No. 5599 was made special order of the day at 4:58 p.m.

#### POINT OF ORDER

Senator Morton: Senator Morton withdrew his point of order regarding Senate Bill No. 5127 raised on the previous day.

#### MOTION

On motion of Senator Jacobsen, Substitute Senate Bill No. 5127 was not substituted for Senate Bill No. 5127 and the substitute bill was not adopted.

#### SECOND READING

SENATE BILL NO. 5127, by Senators Jacobsen and Haugen

Concerning the governance of the department of fish and wildlife.

The measure was read the second time.

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Senate Bill No. 5127 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Zarelli spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5127.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate

Bill No. 5127 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Hewitt, Kastama, Kilmer, McCaslin, Parlette, Pridemore, Roach, Stevens and Zarelli

Excused: Senator Pflug

SENATE BILL NO. 5127, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5566, by Senators Regala and Prentice

Harmonizing excise tax statutes with the streamlined sales and use tax agreement. Revised for 1st Substitute: Harmonizing excise tax statutes with the streamlined sales and use tax agreement in regards to direct sellers, telecommunications ancillary services, commercial parking taxes, and exemption certificates.

#### MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5566 was substituted for Senate Bill No. 5566 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5566 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5566.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5566 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Honeyford

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5566, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5583, by Senators Marr, Honeyford, Rockefeller, Morton, Fraser, Sheldon and Shin

Improving the effectiveness of water bank and exchange provisions.

#### MOTION

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On motion of Senator Rockefeller, Substitute Senate Bill No. 5583 was substituted for Senate Bill No. 5583 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

On page 1, line 7, after "to" strike "many"

On page 1, line 9, after "considered" strike "the establishment of water banks" and insert "using the state trust water rights program for water banking purposes"

On page 1, line 11, after "water" strike "banks and exchanges" and insert "banking"

On page 1, line 16, after "provide" strike "banked"

On page 2, line 2, after "water" strike "banks" and insert "banking"

On page 2, beginning on line 3, after "throughout the" strike all material through "purposes." on line 5, and insert "state and to improve the effectiveness of the state trust water rights program."

On page 5, line 33, after "provided in" strike "subsection (10)" and insert "subsections (10) and (11)"

On page 6, line 32, after "provided in" strike "subsection (10)" and insert "subsections (10) and (11)"

On page 7, beginning on line 25, strike all of subsection (10) and insert the following:

"(10) For water rights donated or leased under subsection (4) or (8) of this section where nonuse of the water right is excused under RCW 90.14.140(1):

(a) The department shall calculate the amount of water eligible to be acquired by looking at the extent to which the right was exercised during the most recent five-year period preceding the date where nonuse of the water right was excused under RCW 90.14.140(1); and

(b) The total of the donated or leased portion of the water right and the portion of the water right remaining with the water right holder shall not exceed the extent to which the water right was exercised during the most recent five-year period preceding the date nonuse of the water right was excused under RCW 90.14.140(1).

(11) For water rights donated or leased under subsection (4) or (8) of this section where nonuse of the water right is exempt under RCW 90.14.140(2) (a) or (d):

(a) The amount of water eligible to be acquired shall be based on historical beneficial use; and

(b) The total of the donated or leased portion of the water right and the portion of the water right the water right holder continues to use shall not exceed the historical beneficial use of that right during the duration of the trust."

Senator Kauffman spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kauffman on page 1, line 7 to Substitute Senate Bill No. 5583.

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

## MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute Senate Bill No. 5583 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

## MOTION

On motion of Senator Hatfield, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5583.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5583 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Holmquist

Excused: Senators Kline and Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 5583, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5776, by Senators McDermott, Schoesler, Fairley, Oemig, Jarrett and Kohl-Welles

Regarding student fees, charges, and assessments.

## MOTIONS

On motion of Senator McDermott, Substitute Senate Bill No. 5776 was substituted for Senate Bill No. 5776 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McDermott, the rules were suspended, Substitute Senate Bill No. 5776 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5776.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5776 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Carrell, Hewitt, Parlette, Roach, Stevens and Zarelli

Excused: Senator Pflug

SUBSTITUTE SENATE BILL NO. 5776, 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.

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## SECOND READING

SENATE BILL NO. 5716, by Senator McCaslin

Regarding election requirements for the creation of municipal wards.

## MOTION

On motion of Senator McCaslin, Substitute Senate Bill No. 5716 was substituted for Senate Bill No. 5716 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

On page 2, line 4, after "(2)" strike all material through "election." on line 5 and insert "No boundaries may be changed during the period starting on the thirtieth day prior to the first day for candidates to file for the primary election and ending with the day of the general election."

Senator McCaslin spoke in favor of adoption of the amendment.

## MOTION

On motion of Senator Marr, Senator Murray was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator McCaslin on page 2, line 4 to Substitute Senate Bill No. 5716.

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

## MOTION

On motion of Senator McCaslin, the rules were suspended, Engrossed Substitute Senate Bill No. 5716 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McCaslin and Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5716.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5716 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Fraser, Hatfield, Kline and Prentice

ENGROSSED SUBSTITUTE SENATE BILL NO. 5716, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Kauffman, Substitute Senate Bill No. 5810 was not substituted for Senate Bill No. 5810 and the substitute bill was not adopted.

## SECOND READING

SENATE BILL NO. 5810, by Senators Kauffman, Berkey, Shin, Franklin, Keiser, Tom and Kohl-Welles

Concerning foreclosures on deeds of trust.

The measure was read the second time.

## MOTION

Senator Kauffman moved that the following striking amendment by Senators Kauffman and Berkey be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 61.24 RCW to read as follows:

(1)(a) A trustee, beneficiary, or authorized agent may not issue a notice of default under RCW 61.24.030(7) until thirty days after initial contact is made as required under (b) of this subsection or thirty days after satisfying the due diligence requirements as described in subsection (5) of this section.

(b) A beneficiary or authorized agent shall contact the borrower in person or by telephone in order to assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure. During the initial contact, the beneficiary or authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the beneficiary or authorized agent shall schedule the meeting to occur within fourteen days. The assessment of the borrower's financial ability to repay the debt and a discussion of options may occur during the initial contact or at the subsequent meeting scheduled for that purpose. At the initial contact, the borrower must be provided the toll-free telephone number made available by the department to find a department-certified housing counseling agency. Any meeting may occur telephonically.

(2) A notice of default issued under RCW 61.24.030(7) must include a declaration, as provided in subsection (9) of this section, from the beneficiary or authorized agent that it has contacted the borrower as provided in subsection (1)(b) of this section, it has tried with due diligence to contact the borrower under subsection (5) of this section, or the borrower has surrendered the property to the trustee, beneficiary, or authorized agent. The trustee is entitled to rely on the declaration as conclusive evidence that the requirements of this section have been satisfied, and the trustee is not liable for the beneficiary's or its authorized agent's failure to comply with the requirements of this section.

(3) A beneficiary's or authorized agent's loss mitigation personnel may participate by telephone during any contact required under this section.

(4) Within fourteen days after the initial contact under subsection (1) of this section, if a borrower has designated a department-certified housing counseling agency, attorney, or other advisor to discuss with the beneficiary or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure, the borrower shall inform the beneficiary or authorized agent and provide the contact information. The beneficiary or authorized agent shall contact the designated representative for the borrower for the discussion within fourteen days after the representative is designated by the borrower. Any deed of trust modification or workout plan offered at the meeting with the borrower's designated representative by the beneficiary or authorized agent is subject to approval by the borrower.

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(5) A notice of default may be issued under RCW 61.24.030(7) if a beneficiary or authorized agent has not contacted a borrower as required under subsection (1)(b) of this section and the failure to contact the borrower occurred despite the due diligence of the beneficiary or authorized agent. Due diligence requires the following:

(a) A beneficiary or authorized agent shall first attempt to contact a borrower by sending a first-class letter to the address of the property encumbered by the deed of trust that includes the toll-free telephone number made available by the department to find a department-certified housing counseling agency, and the following information:

"You may contact the Department of Financial Institutions, the Washington State Bar Association, or the Office of Civil Legal Aid for possible assistance or referrals."

(b)(i) After the letter has been sent, the beneficiary or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls must be made to the primary telephone number on file with the beneficiary or authorized agent.

(ii) A beneficiary or authorized agent may attempt to contact a borrower using an automated system to dial borrowers if the telephone call, when answered, is connected to a live representative of the beneficiary or authorized agent.

(iii) A beneficiary or authorized agent satisfies the telephone contact requirements of this subsection (5)(b) if the beneficiary or authorized agent determines, after attempting contact under this subsection (5)(b), that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected or are not good contact numbers for the borrower.

(c) If the borrower does not respond within fourteen days after the telephone call requirements of (b) of this subsection have been satisfied, the beneficiary or authorized agent shall send a certified letter, with return receipt requested, to the borrower at the address of the property encumbered by the deed of trust.

(d) The beneficiary or authorized agent shall provide a means for the borrower to contact the beneficiary or authorized agent in a timely manner, including a toll-free telephone number or charge-free equivalent that will provide access to a live representative during business hours.

(e) The beneficiary or authorized agent shall post a link on the home page of the beneficiary's or authorized agent's internet web site, if any, to the following information:

(i) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options;

(ii) A list of financial documents borrowers should collect and be prepared to present to the beneficiary or authorized agent when discussing options for avoiding foreclosure;

(iii) A toll-free telephone number or charge-free equivalent for borrowers who wish to discuss options for avoiding foreclosure with their beneficiary or authorized agent; and

(iv) The toll-free telephone number or charge-free equivalent made available by the department to find a department-certified housing counseling agency.

(6) Subsections (1) and (5) of this section do not apply if any of the following occurs:

(a) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary, or authorized agent;

(b) The borrower has contracted with a distressed home consultant as defined in RCW 61.34.020; or

(c) The borrower has filed for bankruptcy, and the bankruptcy stay remains in place.

(7) This section applies only to deeds of trust made from January 1, 2003, to December 31, 2007, inclusive, that are

recorded against owner-occupied residential real property. This section does not apply to deeds of trust: (a) Securing a debt incurred primarily for business, investment, or commercial purposes; (b) securing a guarantor's obligations under a guaranty; or (c) securing a purchaser's obligations under a seller-financed sale. For purposes of this subsection, "owner-occupied" means that the residence is the principal residence of the borrower.

(8) As used in this section:

(a) "Borrower" means a grantor of a deed of trust who executed a promissory note secured by the deed of trust.

(b) "Department" means the United States department of housing and urban development.

(c) "Residential real property" means a one-to-four, single-family residence, condominium unit, residential cooperative unit, residential unit in any other type of planned unit development, or manufactured home in which title has been eliminated under RCW 65.20.040.

(d) "Seller-financed sale" means a real property transaction where the seller finances all or part of the purchase price, and that financed amount is secured by a deed of trust against the subject real property.

(9) The form of declaration to be provided by the beneficiary or authorized agent as required under subsection (2) of this section must be in substantially the following form:

#### **"FORECLOSURE LOSS MITIGATION FORM**

**Please select applicable option(s) below.**

The undersigned beneficiary or authorized agent for the beneficiary hereby represents and declares under the penalty of perjury that [check the applicable box and fill in any blanks so that the trustee can insert, on the beneficiary's behalf, the applicable declaration in the notice of default required under chapter 61.24 RCW]:

(1)  The beneficiary or beneficiary's authorized agent has contacted the borrower under, and has complied with, section 1 of this act (contact provision to "assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure").

(2)  The beneficiary or beneficiary's authorized agent has exercised due diligence to contact the borrower as required in section 1(5) of this act and, after waiting fourteen days after the requirements in section 1 of this act were satisfied, the beneficiary or the beneficiary's authorized agent sent to the borrower(s), by certified mail, return receipt requested, the letter required under section 1 of this act.

(3)  The borrower has surrendered the secured property as evidenced by either a letter confirming the surrender or by delivery of the keys to the secured property to the beneficiary, the beneficiary's authorized agent or to the trustee.

(4)  Under section 1 of this act, the beneficiary or beneficiary's authorized agent has evidence in its file, and reasonably believes, that the borrower has contracted with a distressed home consultant as defined in RCW 61.34.020.

(5)  Under section 1 of this act, the beneficiary or the beneficiary's authorized agent has verified information that, on or before the date of this declaration, the borrower(s) has filed for bankruptcy, and the bankruptcy stay remains in place."

NEW SECTION. **Sec. 2.** A new section is added to chapter 61.24 RCW to read as follows:

(1) Upon posting a notice of sale under RCW 61.24.040, a trustee or authorized agent shall also post the following notice, in the manner required for posting the notice of sale on the property to be sold, and a trustee, beneficiary, or authorized agent shall mail at the same time in an envelope addressed to the "Resident of property subject to foreclosure sale" the following notice:

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"The foreclosure process has begun on this property, which may affect your right to continue to live in this property. Ninety days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new lease or rental agreement or provide you with a sixty-day eviction notice. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights that you may have."

(2) This section applies only to deeds of trust secured by residential real property, as defined in section 1 of this act, and if the billing address for the promissory note is different than the property address.

NEW SECTION. **Sec. 3.** A new section is added to chapter 61.24 RCW to read as follows:

(1)(a) A tenant or subtenant in possession of a residential real property at the time the property is sold in foreclosure must be given sixty days' written notice before the tenant or subtenant may be removed from the property as prescribed in chapter 59.12 RCW.

(b) A tenant may be evicted for waste or nuisance and subject to unlawful detainer under chapter 59.12 RCW.

(2) This section does not prohibit the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(a) Negotiating a new purchase, lease, or rental agreement with a tenant or subtenant; or

(b) Offering a payment to a tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection (1) of this section. However, the tenant or subtenant is not required to accept any payment offered.

(3) This section does not apply if a party to the promissory note secured by the deed of trust remains on the property as a tenant, subtenant, or occupant.

NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act apply only to the foreclosure of a nonowner-occupied residential real property as defined in section 1 of this act.

NEW SECTION. **Sec. 5.** A new section is added to chapter 61.24 RCW to read as follows:

(1) The failure of the grantor to bring a civil action to enjoin a foreclosure sale under this chapter may not be deemed a waiver of a claim for damages asserting:

(a) Common law fraud, misrepresentation, and breach of contract;

(b) A violation of RCW 19.144.080; or

(c) Failure of the trustee to materially comply with the provisions of this chapter.

(2) The nonwaived claims listed under subsection (1) of this section may be (a) asserted in an unlawful detainer action brought by the lender against the grantor as a holdover tenant or (b) independently brought against a lender or trustee if a third party is the successful bidder at the foreclosure sale.

(3) The nonwaived claims listed under subsection (1) of this section are subject to the following limitations:

(a) The claim must be asserted or brought within two years from the date of the foreclosure sale;

(b) The claim may not seek any remedy at law or in equity other than direct monetary damages, unless the property is owned by the beneficiary at the time the action is filed;

(c) The claim may not otherwise affect the validity or finality of the foreclosure sale or a subsequent transfer of the property to a bona fide purchaser;

(d) A grantor who files such a claim is prohibited from filing for record a lis pendens without prior permission of a court, as provided for in RCW 4.28.320, or any other document purporting to create a similar effect, related to the real property foreclosed upon;

(e) The claim may not otherwise operate to encumber or cloud the title to the property that was subject to the foreclosure

sale, except to the extent that a judgment on the claim in favor of the grantor may, consistent with RCW 4.56.190, become a judgment lien on real property then owned by the lender; and

(f) The relief that may be granted for judgment upon the claim is limited to actual damages. However, if the grantor brings in the same civil action a claim for violation of chapter 19.86 RCW, arising out of the same alleged facts, relief under chapter 19.86 RCW is limited to actual damages, treble damages as provided for in RCW 19.86.090, and the costs of suit, including a reasonable attorney's fee.

(4) This section applies only to foreclosures of an owner-occupied one-to-four, single-family residence, condominium unit, residential cooperative unit, residential unit in any other type of planned unit development, or manufactured home in which title has been eliminated under RCW 65.20.040, which is the grantor's principal place of residence.

(5) This section does not apply to the foreclosure of a deed of trust used to secure a debt incurred for business, investment, or commercial purposes or to secure a guaranty.

**Sec. 6.** RCW 61.24.010 and 2008 c 153 s 1 are each amended to read as follows:

(1) The trustee of a deed of trust under this chapter shall be:

(a) Any domestic corporation incorporated under Title 23B, 30, 31, 32, or 33 RCW of which at least one officer is a Washington resident; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or ~~((its agents))~~ any title insurance agent licensed under chapter 48.17 RCW; or

(c) Any attorney who is an active member of the Washington state bar association at the time the attorney is named trustee; or

(d) Any professional corporation incorporated under chapter 18.100 RCW, any professional limited liability company formed under chapter 25.15 RCW, any general partnership, including limited liability partnerships, formed under chapter 25.04 RCW, all of whose shareholders, members, or partners, respectively, are either licensed attorneys or entities, provided all of the owners of those entities are licensed attorneys, or any domestic corporation wholly owned by any of the entities under this subsection (1)(d); or

(e) Any agency or instrumentality of the United States government; or

(f) Any national bank, savings bank, or savings and loan association chartered under the laws of the United States.

(2) The trustee may resign at its own election or be replaced by the beneficiary. The trustee shall give prompt written notice of its resignation to the beneficiary. The resignation of the trustee shall become effective upon the recording of the notice of resignation in each county in which the deed of trust is recorded. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence, or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary shall appoint a trustee or a successor trustee. Only upon recording the appointment of a successor trustee in each county in which the deed of trust is recorded, the successor trustee shall be vested with all powers of an original trustee.

(3) The trustee or successor trustee shall have no fiduciary duty or fiduciary obligation to the grantor or other persons having an interest in the property subject to the deed of trust.

(4) ~~((The trustee or successor trustee shall act impartially between the borrower, grantor, and beneficiary.))~~ The trustee or successor trustee has a duty of good faith to the borrower as defined in section 1 of this act, beneficiary, grantor, or other persons having an interest in the property subject to the deed of trust.

**Sec. 7.** RCW 61.24.030 and 2008 c 153 s 2 and 2008 c 108 s 22 are each reenacted and amended to read as follows:

It shall be requisite to a trustee's sale:

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- (1) That the deed of trust contains a power of sale;
- (2) That the deed of trust contains a statement that the real property conveyed is not used principally for agricultural purposes; provided, if the statement is false on the date the deed of trust was granted or amended to include that statement, and false on the date of the trustee's sale, then the deed of trust must be foreclosed judicially. Real property is used for agricultural purposes if it is used in an operation that produces crops, livestock, or aquatic goods;
- (3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;
- (4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;
- (5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated;
- (6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address; and
- (7) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the borrower and grantor at their last known addresses by both first-class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or personally served on the borrower and grantor. This notice shall contain the following information:
- (a) A description of the property which is then subject to the deed of trust;
- (b) Each county in which the deed of trust is recorded and the document number given to the deed of trust upon recording by each county auditor or recording officer;
- (c) That the beneficiary has declared the borrower or grantor to be in default, and a concise statement of the default alleged;
- (d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;
- (e) An itemized account of all other specific charges, costs, or fees that the borrower, grantor, or any guarantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;
- (f) The total of (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;
- (g) That failure to cure the alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal, and publication of a notice of sale, and that the property described in (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;
- (h) That the effect of the recordation, transmittal, and publication of a notice of sale will be to (i) increase the costs

and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) That the effect of the sale of the grantor's property by the trustee will be to deprive the grantor of all their interest in the property described in (a) of this subsection;

(j) That the borrower, grantor, and any guarantor has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground; and

(k)(i) That before the notice of sale is recorded, transmitted, or served, the trustee: (A) Has proof that the beneficiary is the actual holder of any promissory note or other obligation secured by the deed of trust; or (B) has possession of the original of any promissory note secured by the deed of trust with the proper endorsements so that the entity initiating the foreclosure sale has the authority to enforce the terms of the promissory note. In the event that an original of a promissory note is lost, a copy of any promissory note secured by the deed of trust and a notarized statement, made by the beneficiary under the penalty of perjury, that the original promissory note has been lost may be provided.

(ii) Proof that the beneficiary is the actual holder of the promissory note or other obligation secured by the deed of trust must be made by way of an affidavit made by a person with personal knowledge of the physical location of the promissory note or other obligation.

(l) In the event the property secured by the deed of trust is owner-occupied residential property, a statement, prominently set out at the beginning of the notice, which shall state as follows:

"You should take care to protect your interest in your home. This notice of default (your failure to pay) is the first step in a process that could result in you losing your home. You should carefully review your options. For example:

Can you pay and stop the foreclosure process?

Do you dispute the failure to pay?

Can you sell your property to preserve your equity?

Are you able to refinance this loan with a new loan from another lender with payments, terms, and fees that are more affordable?

Do you qualify for any government or private homeowner assistance programs?

Do you know if filing for bankruptcy is an option? What are the pros and cons of doing so?

Do not ignore this notice; because if you do nothing, you could lose your home at a foreclosure sale. (No foreclosure sale can be held any sooner than ninety days after a notice of sale is issued and a notice of sale cannot be issued until thirty days after this notice.) Also, if you do nothing to pay what you owe, be careful of people who claim they can help you. There are many individuals and businesses that watch for the notices of sale in order to unfairly profit as a result of borrowers' distress.

You may feel you need help understanding what to do. There are a number of professional resources available, including home loan counselors and attorneys, who may assist you. Many legal services are lower-cost or even free, depending on your ability to pay. If you desire legal help in understanding your options or handling this default, you may obtain a referral (at no charge) by contacting the county bar association in the county where your home is located. These legal referral services also provide information about lower-cost or free legal services for those who qualify. You may contact the Department of Financial Institutions, the Washington State Bar Association, or the Office of Civil Legal Aid for possible assistance or referrals."

Sec. 8. RCW 61.24.040 and 2008 c 153 s 3 are each amended to read as follows:

A deed of trust foreclosed under this chapter shall be foreclosed as follows:

(1) At least ninety days before the sale, the trustee shall:

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(a) Record a notice in the form described in ((RCW 61.24.040(1)))(f) of this subsection in the office of the auditor in each county in which the deed of trust is recorded;

(b) To the extent the trustee elects to foreclose its lien or interest, or the beneficiary elects to preserve its right to seek a deficiency judgment against a borrower or grantor under RCW 61.24.100(3)(a), and if their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice of sale described in ((RCW 61.24.040(1)))(f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the following persons or their legal representatives, if any, at such address:

- (i) The borrower and grantor;
- (ii) The beneficiary of any deed of trust or mortgagee of any mortgage, or any person who has a lien or claim of lien against the property, that was recorded subsequent to the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iii) The vendee in any real estate contract, the lessee in any lease, or the holder of any conveyances of any interest or estate in any portion or all of the property described in such notice, if that contract, lease, or conveyance of such interest or estate, or a memorandum or other notice thereof, was recorded after the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iv) The last holder of record of any other lien against or interest in the property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the notice of sale;

(v) The last holder of record of the lien of any judgment subordinate to the deed of trust being foreclosed; and

(vi) The occupants of property consisting solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, whether or not the occupant's rental agreement is recorded, which notice may be a single notice addressed to "occupants" for each unit known to the trustee or beneficiary;

(c) Cause a copy of the notice of sale described in ((RCW 61.24.040(1)))(f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the plaintiff or the plaintiff's attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is recorded in the office of the auditor of any county in which all or part of the property is located on the date the notice is recorded;

(d) Cause a copy of the notice of sale described in ((RCW 61.24.040(1)))(f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to any person who has recorded a request for notice in accordance with RCW 61.24.045, at the address specified in such person's most recently recorded request for notice;

(e) Cause a copy of the notice of sale described in ((RCW 61.24.040(1)))(f) of this subsection to be posted in a conspicuous place on the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of the property;

(f) The notice shall be in substantially the following form:

NOTICE OF TRUSTEE'S SALE

I.

NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the . . . . day of . . . . ., . . . ., at the hour of . . . . o'clock . . . . M. at . . . . . [street address and

location if inside a building] in the City of . . . . ., State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County(ies) of . . . . ., State of Washington, to-wit:

[If any personal property is to be included in the trustee's sale, include a description that reasonably identifies such personal property] which is subject to that certain Deed of Trust dated . . . . ., . . . ., recorded . . . . ., . . . ., under Auditor's File No. . . . ., records of . . . . . County, Washington, from . . . . ., as Grantor, to . . . . ., as Trustee, to secure an obligation in favor of . . . . ., as Beneficiary, the beneficial interest in which was assigned by . . . . ., under an Assignment recorded under Auditor's File No. . . . . [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

II.

No action commenced by the Beneficiary of the Deed of Trust is now pending to seek satisfaction of the obligation in any Court by reason of the Borrower's or Grantor's default on the obligation secured by the Deed of Trust.

[If there is another action pending to foreclose other security for all or part of the same debt, qualify the statement and identify the action.]

III.

The default(s) for which this foreclosure is made is/are as follows:

[If default is for other than payment of money, set forth the particulars]

Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the Deed of Trust is: Principal \$ . . . . ., together with interest as provided in the note or other instrument secured from the . . . . day of . . . . ., . . . ., and such other costs and fees as are due under the note or other instrument secured, and as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the . . . . day of . . . . ., . . . . The default(s) referred to in paragraph III must be cured by the . . . . day of . . . . ., . . . . (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the . . . . day of . . . . ., . . . . (11 days before the sale date), the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated any time after the . . . . day of . . . . ., . . . . (11 days before the sale date), and before the sale by the Borrower, Grantor, any Guarantor, or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

VI.

A written notice of default was transmitted by the Beneficiary or



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Trustee to the Borrower and Grantor at the following addresses: by both first-class and certified mail on the . . . . day of . . . . ., . . . ., proof of which is in the possession of the Trustee; and the Borrower and Grantor were personally served on the . . . . day of . . . . ., . . . ., with said written notice of default or the written notice of default was posted in a conspicuous place on the real property described in paragraph I above, and the Trustee has possession of proof of such service or posting.

	Estimated amount
Currently due	that will be due
to reinstate	to reinstate
on . . . . .	on . . . . .
. . . . .	. . . . .
	(11 days before
	the date set
	for sale)

VII.

The Trustee whose name and address are set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the Grantor and all those who hold by, through or under the Grantor of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the Trustee's sale.

[Add Part X to this notice if applicable under RCW 61.24.040(9)]

Delinquent payments from . . . . ., . . . ., in the amount of \$ . . . . /mo.:	\$ . . . .	\$ . . . .
Late charges in the total amount of:	\$ . . . .	\$ . . . .
Trustee's fees:	\$ . . . .	\$ . . . .
Trustee's fee:	\$ . . . .	\$ . . . .
Trustee's expenses: (Itemization)		
Title report	\$ . . . .	\$ . . . .
Recording fees	\$ . . . .	\$ . . . .
Service/Posting of Notices	\$ . . . .	\$ . . . .
Postage/Copying expense	\$ . . . .	\$ . . . .
Publication	\$ . . . .	\$ . . . .
Telephone charges	\$ . . . .	\$ . . . .
Inspection fees	\$ . . . .	\$ . . . .
. . . . .	\$ . . . .	\$ . . . .
. . . . .	\$ . . . .	\$ . . . .
TOTALS	\$ . . . .	\$ . . . .

, Trustee  
 Address  
 } Phone

[Acknowledgment]

(2) In addition to providing the borrower and grantor the notice of sale described in ((RCW 61.24.040)) subsection (1)(f) of this section, the trustee shall include with the copy of the notice which is mailed to the grantor, a statement to the grantor in substantially the following form:

NOTICE OF FORECLOSURE

Pursuant to the Revised Code of Washington,

Chapter 61.24 RCW

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to . . . . ., the Beneficiary of your Deed of Trust and owner of the obligation secured thereby. Unless the default(s) is/are cured, your property will be sold at auction on the . . . . day of . . . . ., . . . .

To cure the default(s), you must bring the payments current, cure any other defaults, and pay accrued late charges and other costs, advances, and attorneys' fees as set forth below by the . . . . day of . . . . ., . . . . [11 days before the sale date]. To date, these arrears and costs are as follows:

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To pay off the entire obligation secured by your Deed of Trust as of the . . . . day of . . . . you must pay a total of \$ . . . . in principal, \$ . . . . in interest, plus other costs and advances estimated to date in the amount of \$ . . . . From and after the date of this notice you must submit a written request to the Trustee to obtain the total amount to pay off the entire obligation secured by your Deed of Trust as of the payoff date.

As to the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust, you must cure each such default. Listed below are the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust. Opposite each such listed default is a brief description of the action necessary to cure the default and a description of the documentation necessary to show that the default has been cured.

Default	Description of Action Required to Cure and Documentation Necessary to Show Cure
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You may reinstate your Deed of Trust and the obligation secured thereby at any time up to and including the . . . . day of . . . . , . . . [11 days before the sale date], by paying the amount set forth or estimated above and by curing any other defaults described above. Of course, as time passes other payments may become due, and any further payments coming due and any additional late charges must be added to your reinstating payment. Any new defaults not involving payment of money that occur after the date of this notice must also be cured in order to effect reinstatement. In addition, because some of the charges can only be estimated at this time, and because the amount necessary to reinstate or to pay off the entire indebtedness may include presently unknown expenditures required to preserve the property or to comply with state or local law, it will be necessary for you to contact the Trustee before the time you tender reinstatement or the payoff amount so that you may be advised of the exact amount you will be required to pay. Tender of payment or performance must be made to: . . . . , whose address is . . . . , telephone ( ) . . . . AFTER THE . . . . DAY OF . . . . , YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. The Trustee will respond to any written request for current payoff or reinstatement amounts within ten days of receipt of your written request. In such a case, you will only be able to stop the sale by paying, before the sale, the total principal balance (\$ . . . . ) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents and by curing the other defaults as outlined above.

You may contest this default by initiating court action in the Superior Court of the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. A copy of your Deed of Trust and documents evidencing the obligation secured thereby are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense.

The court may grant a restraining order or injunction to restrain a trustee's sale pursuant to RCW 61.24.130 upon five days notice to the trustee of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. This notice shall include copies of all pleadings and related documents to be given to the judge. Notice and other process may be served on the trustee at:

NAME:

ADDRESS:

TELEPHONE NUMBER:

If you do not reinstate the secured obligation and your Deed of Trust in the manner set forth above, or if you do not succeed in restraining the sale by court action, your property will be sold. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition, the trustee shall cause a copy of the notice of sale described in ((RCW 61.24.040)) subsection (1)(f) of this section (excluding the acknowledgment) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale;

(4) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in any of the counties where the property is located. The sale shall be on Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

(6) The trustee has no obligation to, but may, for any cause the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of one hundred twenty days by (a) a public proclamation at the time and place fixed for sale in the notice of sale and if the continuance is beyond the date of sale, by giving notice of the new time and place of the sale by both first class and either certified or registered mail, return receipt requested, to the persons specified in ((RCW 61.24.040)) subsection (1)(b)(i) and (ii) of this section to be deposited in the mail (i) not less than four days before the new date fixed for the sale if the sale is continued for up to seven days; or (ii) not more than three days after the date of the continuance by oral proclamation if the sale is continued for more than seven days, or, alternatively, (b) by giving notice of the time and place of the postponed sale in the manner and to the persons specified in ((RCW 61.24.040)) subsection (1)(b), (c), (d), and (e) of this section and publishing a copy of such notice once in the newspaper(s) described in ((RCW 61.24.040)) subsection (3) of this section, more than seven days before the date fixed for sale in the notice of sale. No other notice of the postponed sale need be given;

(7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value, except that these recitals shall not affect the lien or interest of any person entitled to notice under ((RCW 61.24.040)) subsection (1) of this section, if the trustee fails to give the required notice to such person. In such case, the lien or interest of such omitted person shall not be affected by the sale and such omitted person shall be treated as if such person was the holder of the same lien or interest and was omitted as a party defendant in a judicial foreclosure proceeding;

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(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in any of the obligations secured;

(9) If the trustee elects to foreclose the interest of any occupant or tenant of property comprised solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, the following notice shall be included as Part X of the Notice of Trustee's Sale:

X.  
NOTICE TO OCCUPANTS OR TENANTS

The purchaser at the trustee's sale is entitled to possession of the property on the 20th day following the sale, as against the grantor under the deed of trust (the owner) and anyone having an interest junior to the deed of trust, including occupants ~~((and))~~ who are not tenants. After the 20th day following the sale the purchaser has the right to evict occupants ~~((and))~~ who are not tenants by summary proceedings under ~~((the unlawful detainer act,))~~ chapter 59.12 RCW. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with section 2 of this act;

(10) Only one copy of all notices required by this chapter need be given to a person who is both the borrower and the grantor. All notices required by this chapter that are given to a general partnership are deemed given to each of its general partners, unless otherwise agreed by the parties.

**Sec. 9.** RCW 61.24.060 and 1998 c 295 s 8 are each amended to read as follows:

The purchaser at the trustee's sale shall be entitled to possession of the property on the twentieth day following the sale, as against the grantor under the deed of trust and anyone having an interest junior to the deed of trust, including occupants ~~((and))~~ who are not tenants, who were given all of the notices to which they were entitled under this chapter. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with section 2 of this act. The purchaser shall also have a right to the summary proceedings to obtain possession of real property provided in chapter 59.12 RCW.

**NEW SECTION. Sec. 10.** A new section is added to chapter 59.12 RCW to read as follows:

An unlawful detainer action, commenced as a result of a trustee's sale under chapter 61.24 RCW, must comply with the requirements of RCW 61.24.040 and 61.24.060.

**NEW SECTION. Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 12.** Sections 1 through 4, 8, and 9 of this act expire December 31, 2012."

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

MOTION

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

On page 6, beginning on line 33 of the amendment, strike all of section 5 and insert the following:

**"NEW SECTION. Sec. 5.** A new section is added to chapter 61.24 RCW to read as follows:

(1) The failure of the grantor to bring a civil action to enjoin a foreclosure sale under this chapter may not be deemed a waiver of a claim for damages asserting:

- (a) Common law fraud or misrepresentation; or
- (b) A violation of RCW 19.144.080.

(2) The nonwaived claims listed under subsection (1) of this section may be (a) asserted in an unlawful detainer action brought by the lender against the grantor as a holdover tenant or (b) independently brought against a lender or trustee if a third party is the successful bidder at the foreclosure sale.

(3) The nonwaived claims listed under subsection (1) of this section are subject to the following limitations:

(a) The claim must be asserted or brought within one year from the date of the foreclosure sale;

(b) The claim may not seek any remedy at law or in equity other than direct monetary damages;

(c) The claim may not in any way affect the validity or finality of the foreclosure sale or a subsequent transfer of the property to a bona fide purchaser;

(d) A grantor who files such a claim is prohibited from recording a lis pendens related to the real property foreclosed upon, or any other document purporting to create a similar effect against that property; and

(e) The claim may not otherwise operate to encumber or cloud the title to the property that was subject to the foreclosure sale, except to the extent that a judgment on the claim in favor of the grantor may, consistent with RCW 4.56.190, become a judgment lien on real property then owned by the lender.

(4) This section applies only to foreclosures of an owner-occupied one-to-four, single-family residence, condominium unit, residential cooperative unit, residential unit in any other type of planned unit development, or manufactured home in which title has been eliminated under RCW 65.20.040, which is the grantor's principal place of residence.

(5) This section does not apply to the foreclosure of a deed of trust used to secure a debt incurred for business, investment, or commercial purposes or to secure a guaranty."

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

Senator Kauffman spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 6, line 33 to the striking amendment to Senate Bill No. 5810.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kauffman and Berkey to Senate Bill No. 5810.

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

MOTION

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

On page 1, line 1 of the title, after "trust;" strike the remainder of the title and insert "amending RCW 61.24.010, 61.24.040, and 61.24.060; reenacting and amending RCW 61.24.030; adding new sections to chapter 61.24 RCW; adding a new section to chapter 59.12 RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator Kauffman, the rules were suspended, Engrossed Senate Bill No. 5810 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Schoesler, Benton and Pflug spoke against passage of the bill.

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The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5810.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5810 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 16; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin and Tom

Voting nay: Senators Benton, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli

ENGROSSED SENATE BILL NO. 5810, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6035, by Senators Kohl-Welles, McDermott, Franklin, Keiser, Jacobsen, Fraser, Regala, Haugen, Murray, Kline and McAuliffe

Concerning retrospective rating plans.

#### MOTION

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 6035 was substituted for Senate Bill No. 6035 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Kohl-Welles moved that the following striking amendment by Senators Kohl-Welles, Marr and Kastama be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds that a recurring miscalculation of refunds provided to the sponsors of retrospective rating plans has depleted the industrial insurance accident fund of more than one hundred million dollars, and perhaps as much as one hundred fifty million dollars, with the participants in the retrospective rating plans receiving the benefit of that miscalculation. In some cases, those overpayments to the sponsors of retrospective rating plans have been returned to employer members of those plans and in some cases have been used to fund the activities of the sponsors of those plans. As the premiums paid by employers into the accident fund are based in part upon the solvency of the fund, the legislature finds that overpayments have caused the accident fund to contain fewer assets than it otherwise would contain, requiring base premiums to be set at a level higher than would otherwise be necessary, and further causing the employers who are not members of a retrospective rating plan to subsidize retro members by inflating the amount of retro refunds beyond what was merited by the experience of retro member employers.

The legislature further finds that although the overpayment by the department of labor and industries was not intentional, the error resulting in the overpayment was not identified in the numerous reviews and analyses that have been conducted in the fifteen years since the erroneous calculations began. The legislature finds that additional evaluations and increased

transparency of the retrospective rating system are needed.

**NEW SECTION. Sec. 2.** A new section is added to chapter 51.18 RCW to read as follows:

The legislature finds that the primary purposes of the retrospective rating program created in this chapter are increasing workplace safety, preventing accidents, and improving worker outcomes. The legislature finds that retrospective rating refunds are provided from the industrial insurance accident account, and that the use of Title 51 funds to improve workplace safety, prevent accidents, and improve injured worker outcomes are appropriate uses of such funds. The legislature further finds that any retrospective rating refunds not used to administer the retrospective rating group or to support the purposes of the retrospective rating program belong to and should be returned to the employer members of each retrospective rating group, with the sole exception that individual members may annually authorize use of retrospective rating refunds for purposes unrelated to worker safety and accident prevention, the primary purposes of the retrospective rating program, similar to the annual authorization required from the members of union organizations. The legislature therefore intends to allow and encourage retrospective rating group sponsoring entities to use retrospective rating refunds to create and maintain programs that improve workplace safety, prevent accidents, and improve worker outcomes while distributing the remainder of the refund to employer members of the group, subject to the optional annual authorizations by the members of each group. To restore public confidence in the use of retrospective rating funds, the legislature intends to make information concerning the sponsoring entities' administration of the program publicly available.

**NEW SECTION. Sec. 3.** A new section is added to chapter 51.18 RCW to read as follows:

Beginning January 1, 2010, and continuing for five consecutive years, the department shall:

(1) Conduct an annual actuarial review of the retrospective rating program. The actuarial review must include an examination of the method used to calculate retrospective premiums, refunds, and assessments, an examination of the impact retrospective rating refunds and assessments have on the accident fund, and an examination of any other factors necessary to conduct a thorough actuarial review.

(2) By December 31st of each year in which an actuarial review is conducted, report the contents of the review to the appropriate committees of the legislature.

**NEW SECTION. Sec. 4.** A new section is added to chapter 51.18 RCW to read as follows:

(1) With respect to refunds made by the department to a sponsor of a retrospective rating group on or after the effective date of this section:

(a) The sponsoring entity must distribute the retrospective rating refund or adjustment to employers in the retrospective rating group based on a distribution plan, less any amount retained by the sponsoring entity, within a time period selected by the sponsoring entity and set forth in the distribution plan. The distribution plan may not authorize a sponsoring entity to retain any portion of a refund or adjustment, except as authorized by this section. This distribution plan shall be provided to the department upon enrollment, and annually to the members of the retrospective rating group. The department shall make the distribution plan publicly available, excluding any financial information specific to individual employer members.

(b) The sponsoring entity may retain a portion of the refund for reasonable administrative costs. When any portion of the refund is distributed to the employers in the retrospective rating group, the sponsoring entity shall disclose to such employers and to the department the amounts of all administrative costs for which it has retained any portion of the refund and the specific purposes for which those costs were incurred.

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(c) The sponsoring entity may retain a portion of the refund for costs directly related to the development and implementation of a safety plan to increase workplace safety and to prevent accidents. The safety plan shall be submitted to the department annually. The department shall develop rules to define the required elements of a retrospective rating safety plan.

(d) The sponsoring entity may retain a portion of the refund for costs directly related to claims assistance provided to its member employers.

(e) The sponsoring entity may retain a portion of the refund to establish and maintain reserves for the sole and exclusive purpose of covering the costs of future potential retrospective rating assessments and an amount of reserves necessary to protect against future penalties or other unexpected retrospective rating costs incurred during the same or a subsequent coverage year.

(f) The sponsoring entity must keep a detailed list of costs related to (b) through (e) and of this subsection and report this list to the department and to employers in the retrospective rating group at the time the retrospective rating refunds or adjustments are distributed to members of the group.

(g) Any amounts retained by a sponsoring entity under (b) through (e) of this subsection shall be used solely for the purposes described in those subsections, and may not be used directly or indirectly for any other purpose.

(h) In addition to the amounts that a sponsoring entity may retain under subsections (b) through (e), the sponsoring entity may retain a portion of the retrospective rating refund or adjustment due an employer member if the member has provided a written authorization allowing the entity to retain a portion of the refund or adjustment due the employer member. Any authorization provided by an employer member shall be effective for a period not to exceed one year. If a sponsoring entity retains funds due the employer member under this subsection, the sponsoring entity must notify the employer member that additional funds have been retained by the sponsoring entity, and inform the employer member of the amount withheld from the employer member under this subsection. The department shall develop a form to be separately executed by any employer member authorizing the retention of funds under this subsection, which form shall (i) authorize the retention of either a percentage of the member's refund or a fixed dollar amount, and (ii) inform the member that the authorization is irrevocable for one year. The sponsoring entity shall use the form developed by the department or a form prepared by the sponsoring entity that is consistent with this subsection and has been approved by the department.

(i) Any amounts retained by a sponsoring entity under subsection (h) may be used by the sponsoring entity for any legal purpose, even if such purpose is unrelated to worker safety and accident prevention.

(2) The group must comply with subsection (1) of this section to be approved by the department for future enrollment.

**Sec. 5.** RCW 51.18.030 and 1999 c 7 s 4 are each amended to read as follows:

(1) Entities which sponsored retrospective rating groups prior to July 25, 1999, may not sponsor additional retrospective rating groups in a new business or industry category until the coverage period beginning January 1, 2003.

(2) For retrospective rating groups approved by the department on or after July 25, 1999, the sponsoring entity may not propose another retrospective rating group in a new business or industry category until the minimum mandatory adjustment periods required by the department for the first two coverage periods of the last formed retrospective rating group are completed.

(3) Subsections (1) and (2) of this section do not prohibit a sponsoring entity from proposing to:

(a) Divide an existing retrospective rating group into two or more groups provided that the proposed new groups fall within the same business or industry category as the group that is proposed to be divided; or

(b) Merge existing retrospective rating groups into one business or industry category provided that the proposed merged groups fall within the same business or industry category as the groups that are proposed to be merged.

(4) Under no circumstances may a sponsoring entity propose retrospective rating groups in multiple business or industry categories in the same application to the department.

(5) An insurer, insurance broker, agent, or solicitor may not:

(a) Participate in the formation of a retrospective rating group; or

(b) Sponsor a retrospective rating group.

(6) A sponsoring entity may not require a participating member or applicant to: (a) agree to reenroll in the group's future coverage period, (b) maintain membership in the sponsoring entity or any other organization beyond the coverage period, which includes the three year period during which further refunds and assessments may be made, or (c) contribute funds to the sponsoring entity or any other organization in excess of the amounts authorized by this act."

Senators Kohl-Welles and Kastama spoke in favor of adoption of the striking amendment.

Senator Holmquist spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles, Marr and Kastama to Substitute Senate Bill No. 6035.

The motion by Senator Kohl-Welles carried and the striking amendment was adopted by a rising vote.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute Senate Bill No. 6035 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Marr, Brown and Kline spoke in favor of passage of the bill.

Senators Delvin, Benton, Schoesler and Stevens spoke against passage of the bill.

#### POINT OF ORDER

Senator Holmquist: "I don't think the previous speaker is speaking on the bill. It's not pertaining to the bill before us."

#### REPLY BY THE PRESIDENT

President Owen: "The President believes that he is walking just as closely to the bill as the other speakers were walking."

Senator Oemig spoke in favor of passage of the bill.

Senators Hewitt, Roach, Carrell, Becker, Swecker, Honeyford, King, Sheldon, Brandland and Holmquist spoke against passage of the bill.

#### POINT OF ORDER

Senator Eide: "Thank you Mr. President. I don't believe the good Senator is speaking about the bill."

#### REPLY BY THE PRESIDENT

President Owen: "The President believes she's speaking to the effects of the bill. Senator Holmquist, please proceed."

#### REMARKS BY THE PRESIDENT

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President Owen: "Senator, Senator Holmquist. That would be going beyond the rules of the Senate, impugning another member's motives and attacking another member. I'd appreciate it if you not do that. Senator Holmquist, you know your rules do not allow to address, to speak of another member."

## POINT OF ORDER

Senator Brown: "There is a line here with respect to what is repeatedly come up in this debate related to the motives of the makers of this bill. It's inappropriate on the Senate floor. It's inappropriate to challenge the motives of the proponents and it's inappropriate to challenge the motives of the opponents. It is unseemly for Senators and I would hope that the President would rule."

## REPLY BY THE PRESIDENT

President Owen: "Senator Brown, based on your own rules you are, your point is well taken. Senator Holmquist, you made it very clear who you were quoting so the President is not going to allow that."

Senator Pflug spoke against the passage of the bill.

## POINT OF ORDER

Senator Brown: "I object. The member is clearly impugning the motives of the proponents of this bill, repeatedly."

## REPLY BY THE PRESIDENT

President Owen: "Senator Brown, the Senator is quoting a written document. The President can't believe that that is impugning the member's motives. If she was talking about a member specifically I would have to interrupt that differently. Senator Pflug."

## MOTION

Senator Eide demanded that the previous question be put.

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

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

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6035.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6035 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jarrett, Kilmer, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 6035, having received the constitutional majority, was declared

passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 6035 was immediately transmitted to the House of Representatives.

## SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8404, by Senators Kilmer, Jarrett, Hewitt, Delvin, Jacobsen, Shin and Pflug

Providing for the 2008-2018 state comprehensive plan for workforce training.

## MOTIONS

On motion of Senator Kilmer, Substitute Senate Concurrent Resolution No. 8404 was substituted for Senate Concurrent Resolution No. 8404 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Concurrent Resolution No. 8404 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Benton spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Substitute Senate Concurrent Resolution No. 8404.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Concurrent Resolution No. 8404 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8404, having received the constitutional majority, was declared passed.

## SECOND READING

SENATE BILL NO. 5695, by Senators Oemig, Swecker, Ranker, Tom, Shin and Haugen

Authorizing the Washington state patrol to accept donations.

The measure was read the second time.

## MOTION

On motion of Senator Oemig, the rules were suspended, Senate Bill No. 5695 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5695.

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ROLL CALL

March 11, 2009

The Secretary called the roll on the final passage of Senate Bill No. 5695 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SENATE BILL NO. 5695, 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.

SPECIAL ORDER OF BUSINESS

SECOND READING

SENATE BILL NO. 5599, by Senators McDermott, Oemig, Kohl-Welles, Pridemore, Marr, Brown, Tom, Kline, McAuliffe, Regala and Shin

Approving the entry of Washington into the agreement among the states to elect the president by national popular vote.

The measure was read the second time.

MOTION

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

Senators McDermott, Kline and Hatfield spoke in favor of passage of the bill.

Senators Hargrove, Roach, Pflug, Carrell and Benton spoke against passage of the bill.

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

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5599 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hargrove, Hewitt, Hobbs, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

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

MOTION

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

MESSAGE FROM THE HOUSE

MR. PRESIDENT

The House has passed the following bills:  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1393,  
 SUBSTITUTE HOUSE BILL NO. 1402,  
 SUBSTITUTE HOUSE BILL NO. 1415,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1512,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2009

MR. PRESIDENT:

The House has passed the following bills:  
 SECOND SUBSTITUTE HOUSE BILL NO. 1172,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1450,  
 SUBSTITUTE HOUSE BILL NO. 1774,  
 SUBSTITUTE HOUSE BILL NO. 1778,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1797,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2009

MR. PRESIDENT:

The House has passed the following bills:  
 HOUSE BILL NO. 1199,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1290,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1496,  
 SUBSTITUTE HOUSE BILL NO. 1663,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1782,  
 SUBSTITUTE HOUSE BILL NO. 1793  
 HOUSE BILL NO. 1822,  
 SUBSTITUTE HOUSE BILL NO. 1919,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1954,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2078,  
 HOUSE BILL NO. 2206,  
 HOUSE BILL NO. 2271,  
 ENGROSSED HOUSE BILL NO. 2285,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2009

MR. PRESIDENT:

The House has passed the following bills:  
 HOUSE BILL NO. 1722,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1887,  
 ENGROSSED HOUSE BILL NO. 1965,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2222,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2245,  
 HOUSE BILL NO. 2313,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 5:24 p.m., on motion of Senator Eide, the Senate

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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