

**THIRTY-SIXTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Monday, February 18, 2008

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Holmquist, Rasmussen and Swecker.

The Sergeant at Arms Color Guard consisting of Pages Laura Pflug and Nicole Chapelle, presented the Colors. Pastor Robert Luhn of the Othello Nazarene Church offered the prayer.

**MOTION**

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

**MOTION**

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

**MESSAGE FROM THE HOUSE**

February 15, 2008

MR. PRESIDENT:

The House has passed the following bills:

HOUSE BILL NO. 1545,  
 HOUSE BILL NO. 1775,  
 HOUSE BILL NO. 2134,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2344,  
 HOUSE BILL NO. 2485,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2507,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624,  
 SUBSTITUTE HOUSE BILL NO. 2639,  
 HOUSE BILL NO. 2764,  
 SUBSTITUTE HOUSE BILL NO. 2836,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2996,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3123,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3180,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3216,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 3259,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 15, 2008

MR. PRESIDENT:

The House has passed the following bills:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1621,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1773,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2449,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2514,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2884,  
 SUBSTITUTE HOUSE BILL NO. 2893,  
 ENGROSSED HOUSE BILL NO. 2985,  
 ENGROSSED HOUSE BILL NO. 3047,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3051,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3125,  
 SECOND SUBSTITUTE HOUSE BILL NO. 3129,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3145,  
 SUBSTITUTE HOUSE BILL NO. 3183,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205,  
 SECOND SUBSTITUTE HOUSE BILL NO. 3227,  
 SUBSTITUTE HOUSE BILL NO. 3291,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 3329,  
 HOUSE JOINT MEMORIAL NO. 4030,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 15, 2008

MR. PRESIDENT:

The House has passed the following bills:

ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1873,  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 15, 2008

MR. PRESIDENT:

The House has passed the following bills:

SUBSTITUTE HOUSE BILL NO. 2444,  
 HOUSE BILL NO. 2527,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2557,  
 SUBSTITUTE HOUSE BILL NO. 2580,  
 SUBSTITUTE HOUSE BILL NO. 2756,  
 HOUSE BILL NO. 2850,  
 HOUSE BILL NO. 2949,  
 SECOND SUBSTITUTE HOUSE BILL NO. 3104,  
 HOUSE BILL NO. 3281,  
 HOUSE JOINT MEMORIAL NO. 4029,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 15, 2008

MR. PRESIDENT:

The House has passed the following bills:

SECOND SUBSTITUTE HOUSE BILL NO. 2537,  
 HOUSE BILL NO. 2650,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2829,  
 SUBSTITUTE HOUSE BILL NO. 2963,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 3166,  
 SECOND SUBSTITUTE HOUSE BILL NO. 3274,  
 HOUSE BILL NO. 3275,  
 ENGROSSED HOUSE BILL NO. 3276,  
 SUBSTITUTE HOUSE BILL NO. 3283,  
 SECOND SUBSTITUTE HOUSE BILL NO. 3349,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 15, 2008

MR. PRESIDENT:

The House has passed the following bills:

HOUSE BILL NO. 2781,  
 SUBSTITUTE HOUSE BILL NO. 2823,  
 SUBSTITUTE HOUSE BILL NO. 2838,  
 SUBSTITUTE HOUSE BILL NO. 2959,  
 SUBSTITUTE HOUSE BILL NO. 3002,  
 HOUSE BILL NO. 3106,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Marr moved that Gubernatorial Appointment No. 9308, Ann C. Heath, as a member of the Sentencing Guidelines Commission, be confirmed.

Senator Marr spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Brown, Eide and Rasmussen were excused.

MOTION

On motion of Senator Brandland, Senators Holmquist and Swecker were excused.

APPOINTMENT OF ANN C. HEATH

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9308, Ann C. Heath as a member of the Sentencing Guidelines Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9308, Ann C. Heath as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Holmquist, Rasmussen and Swecker - 4

Gubernatorial Appointment No. 9308, Ann C. Heath, having received the constitutional majority was declared confirmed as a member of the Sentencing Guidelines Commission.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Spanel moved that Gubernatorial Appointment No. 9329, Dennis Madsen, as a member of the Board of Trustees, Western Washington University, be confirmed.

Senators Spanel and Jacobsen spoke in favor of passage of the motion.

MOTION

On motion of Senator Marr, Senators Kastama and Regala were excused.

APPOINTMENT OF DENNIS MADSEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9329, Dennis Madsen as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9329, Dennis Madsen as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 44

Absent: Senator Kline - 1

Excused: Senators Brown, Kastama, Rasmussen and Swecker - 4

Gubernatorial Appointment No. 9329, Dennis Madsen, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9145, Howard Lincoln, as a member of the Board of Trustees, Western Washington University, be confirmed.

Senators Prentice and Pflug spoke in favor of passage of the motion.

APPOINTMENT OF HOWARD LINCOLN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9145, Howard Lincoln as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9145, Howard Lincoln as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

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Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 46

Excused: Senators Brown, Kastama and Swecker - 3

Gubernatorial Appointment No. 9145, Howard Lincoln, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

#### MOTION

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

#### MOTION

Senator Rasmussen moved adoption of the following resolution:

#### SENATE RESOLUTION 8711

By Senators Rasmussen, Hatfield, Spanel, Schoesler, Morton, Shin, Fraser, Jacobsen, Swecker, and Honeyford

WHEREAS, The 4-H Youth Development Program of Washington State University Extension has assisted the young people in Washington develop essential "life skills" since it was established in 1902; and

WHEREAS, The program centers on teaching young people to become productive members of society by fostering citizenship, science, math and technology literacy, health and wellness, communication, and decision-making skills; and

WHEREAS, Over 80,000 young people and 10,000 adult volunteers throughout Washington participated in 4-H Youth Development Programs in 2007; and

WHEREAS, These programs helped participants learn about a wide variety of subjects including science, family living, applied arts, and government activism; and

WHEREAS, These programs work with traditional community clubs and reach youth through urban groups, special interest groups, nutrition programs, after-school programs, camping, and interagency learning experiences; and

WHEREAS, More than 300 4-H members from around the state are currently visiting the State Capitol as part of an annual statewide educational program titled "4-H Know Your Government"; and

WHEREAS, The 4-H Know Your Government Program focused this year on the election process including building a political platform based on community issues and electing a candidate and bettering the understanding of the issues related to pivotal political happenings; and

WHEREAS, 4-H will continue its dedication to empower young people to become active global citizens and realize the value, significance, and responsibility of taking part in local, regional, state, national, and international community issues;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate recognize the 4-H Youth Development Program for its many contributions to the youth of Washington and the betterment of our communities; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Pat Boyes, the State 4-H Director for the Washington State University Extension 4-H Youth Development Program.

Senators Rasmussen, Schoesler and Morton spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8711.

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

#### MOTION

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

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

#### MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through February 18, 2008."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through February 18, 2008.

#### MOTION

At 10:30 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:33 a.m. by President Owen.

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 6181, by Senators McDermott, Oemig, Fairley and Kohl-Welles

Providing an employee of the county legislative authority may be appointed to the county canvassing board.

#### MOTIONS

On motion of Senator McDermott, Substitute Senate Bill No. 6181 was substituted for Senate Bill No. 6181 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. 6181 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McDermott spoke in favor of passage of the bill.

Senators Benton and Roach spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6181.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6181 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 31

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Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli - 17

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6181, 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

Senator Eide moved that the Senate advanced to the ninth order of business for the purpose of reconsidering the vote by which Substitute Senate Bill No. 6777 failed to pass the senate.

#### MOTION

Senator Schoesler moved to amend the motion by Senator Eide and the committee also consider Senate Joint Resolution No. 8226 and Senate Bill No. 6565.

#### REMARKS BY THE PRESIDENT

President Owen: "For both Senator Eide's motion and Senator Schoesler's subsequent motion, the President would note that if you go to the ninth order of business you are not restricted on what bills you can or can not consider. You are restricted only by the mere fact that you will or will not bring them up. So, it's not necessary to state which bill that you wish to deal with at this time. The motion is to go to the ninth order of business. Is that clear? If you wish to take up a bill at that time, you make a motion to take up the bill at that time."

#### REMARKS BY SENATOR BENTON

Senator Benton: "Thank you Mr. President. Notwithstanding your previous comments, it does not preclude a member of this body for making a motion to amend the motion to go to the ninth order for the purpose of a particular bill. The motion would still be in order although it is not necessary. Is that correct?"

#### REMARKS BY SENATOR EIDE

Senator Eide: "Thank you Mr. President. Just for the members' information, I've discussed with the good Senator and we're going to accept them as a friendly amendment."

#### REMARKS BY THE PRESIDENT

President Owen: "Again, the President would just note, that it's not necessary in order to state which those are. Normally that is done to provide information to the members of the purpose of going to that particular order."

The President declared the question before the Senate to be the motion by Senator Eide that the Senate advance to the ninth order of business.

The motion by Senator Eide carried and the Senate advanced to the ninth order of business by voice vote.

#### MOTION

Senator Benton moved that the Committee on Ways & Means be relieved of further consideration of Senate Joint

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Resolution No. 8226 and Senate Bill No. 6565 and that the measures be placed on the second reading calendar.

Senator Eide spoke against the motion.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the Senate support the demand. The demand is sustained.

The President declared the question before the Senate to be the motion by Senator Benton that the Committee on Ways & Means be relieved of further consideration of Senate Joint Resolution No. 8226 and Senate Bill No. 6565.

#### PARLIAMENTARY INQUIRY

Senator Hatfield: "Are we voting on an amendment or a motion?"

#### REPLY BY THE PRESIDENT

President Owen: "You are voting on a motion by Senator Benton."

Senators Benton, Schoesler, Zarelli and Pflug spoke in favor of the motion

Senator Brown spoke against the motion.

#### 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 was carried by voice vote.

The President declared the question before the Senate to be the motion by Senator Benton the Committee on Ways & Means be relieved of further consideration of Senate Joint Resolution No. 8226 and Senate Bill No. 6565.

#### ROLL CALL

The Secretary called the roll on the motion by Senator Benton that the Committee on Ways & Means be relieved of further consideration of Senate Joint Resolution No. 8226 and Senate Bill No. 6565 and the motion failed by the following vote: Yeas, 18; Nays, 30; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli - 18.

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 30.

Excused: Senator Swecker - 1.

#### MOTION FOR IMMEDIATE RECONSIDERATION

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Prior notice haven been given, Senator Brown moved to immediately reconsider the vote by which Substitute Senate Bill No. 6777 failed to pass the Senate.

#### MOTION

Senator Benton moved to table the motion by Senator Brown.

Senator Benton demanded a roll call.

The President declared that one-sixth of the Senate support the demand. The demand is sustained.

The President declared the question before the Senate to be the motion by Senator Benton to table the motion by Senator Brown to immediately reconsider the vote by which Substitute Senate Bill No. 6777 failed to pass the senate.

#### ROLL CALL

The Secretary called the roll on the motion by Senator Benton to table the motion by Senator Brown to immediately reconsider Substitute Senate Bill No. 6777 and the motion failed by the following vote: Yeas, 16; Nays, 32; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli - 16.

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 32.

Excused: Senator Swecker - 1.

#### 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 motion by Senator Brown to immediately reconsider Substitute Senate Bill No. 6777.

The motion by Senator Brown carried and Substitute Senate Bill No. 6777 was immediately reconsidered by voice vote.

#### MOTION

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

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 6777, by Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators McDermott, Brown, Murray, Kohl-Welles and Pridemore).

Clarifying interests in certain state lands.

The bill was read on Third Reading.

Senators Kastama and Prentice spoke in favor of passage of the bill on reconsideration.

Senators Schoesler, Pflug, Honeyford and Carrell spoke against passage of the bill on reconsideration.

#### 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 Substitute Senate Bill No. 6777 on reconsideration.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6777 on reconsideration and the bill passed the Senate by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Eide, Fairley, Franklin, Fraser, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Regala, Rockefeller, Spanel, Tom and Weinstein - 25

Voting nay: Senators Benton, Berkey, Brandland, Carrell, Delvin, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Rasmussen, Roach, Schoesler, Sheldon, Shin, Stevens and Zarelli - 23

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6777, on reconsideration, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Substitute Senate Bill No. 6777 was immediately transmitted to the House of Representatives.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5100, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Hobbs, McAuliffe, Regala, Fairley, Shin, Weinstein, Murray, Keiser, Prentice, Kline, Spanel, Fraser, Tom, Kohl-Welles and Rasmussen).

Regarding health insurance information for students.

The bill was read on Third Reading.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Substitute Senate Bill No. 5100 was returned to second reading for the purpose of amendment.

#### SECOND READING

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ENGROSSED SUBSTITUTE SENATE BILL NO. 5100, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Hobbs, McAuliffe, Regala, Fairley, Shin, Weinstein, Murray, Keiser, Prentice, Kline, Spanel, Fraser, Tom, Kohl-Welles and Rasmussen)

Regarding health insurance information for students.

The measure was read the second time.

#### MOTION

Senator Hobbs moved that the following striking amendment by Senators Hobbs and Brandland be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) By July 1, 2008, the superintendent of public instruction shall solicit and select up to six school districts to implement, on a pilot project basis, this section. The selected school districts shall include districts from urban and rural areas, and eastern and western Washington.

(2) Beginning with the 2008-09 school year, as part of a public school's enrollment process, each school participating as a pilot project shall annually inquire whether a student has health insurance. The school shall include in the inquiry a statement explaining that an outreach worker may contact families with uninsured students about options for health care coverage. The inquiry shall make provision for the parent or guardian to authorize the sharing of information for this purpose, consistent with state and federal confidentiality requirements.

(3) The school shall record each student's health insurance status in the district's student information system.

(4) By December 1, 2008, from the district's student information system, the pilot school shall develop a list of students without insurance for whom parent authorization to share information was granted. To the extent such information is available, the list shall include:

(a) Identifiers, including each student's full name and date of birth; and

(b) Parent or guardian contact information, including telephone number, e-mail address, and street address.

(5) By September 1, 2008, the department and superintendent shall develop and make available a model agreement to enable schools to share student information in compliance with state and federal confidentiality requirements.

(6) By January 1, 2009, each participating pilot school and a local outreach organization, where available, shall work to put in place an agreement to share student information in accordance with state and federal confidentiality requirements. Once an agreement is in place, the school shall share the list described in subsection (4) of this section with the outreach organization.

(7) The outreach organization shall use the information on the list to contact families and assist them to enroll students on a medical program, in accordance with chapter 74.09 RCW.

(8) Beginning July 1, 2009, pilot schools shall annually report to the superintendent of public instruction:

(a) The number of students identified without health insurance under subsection (2) of this section; and

(b) Whether an agreement as described under subsection (6) of this section is in place.

(9) Beginning December 1, 2009, the department and the superintendent shall annually submit a joint report to the legislature that provides:

(a) Summary information on the number of students identified without insurance;

(b) The number of schools with agreements with outreach organizations and the number without such agreements;

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(c) The impact of such outreach efforts they can quantify; and

(d) Any recommendations for changes that would improve the efficiency or effectiveness of outreach efforts described in this section.

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

(a) "Department" means the department of social and health services.

(b) "Superintendent" means the superintendent of public instruction.

(c) "Outreach organization" means a nonprofit organization or a local government entity either contracting with the department pursuant to chapter 74.09 RCW, or otherwise qualified to provide outreach, education, and enrollment services to uninsured children.

**NEW SECTION. Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hobbs and Brandland to Engrossed Substitute Senate Bill No. 5100.

The motion by Senator Hobbs 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 "insurance;" strike the remainder of the title and insert "adding a new section to chapter 28A.210 RCW; and creating a new section."

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5100 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.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5100.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5100 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 33

Voting nay: Senators Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli - 15

Excused: Senator Swecker - 1

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5100, 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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MOTION

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SECOND READING

At 12:22 p.m., on motion of Senator Eide, the Senate was recessed until 1:15 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:15 p.m. by President Owen.

MOTION

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

SECOND READING

SENATE BILL NO. 6204, by Senator Sheldon

Dividing water resource inventory area 14 into WRIA 14a and WRIA 14b.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Bill No. 6204 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Brandland, Senators Delvin, Hewitt, Holmquist, McCaslin, Morton, Parlette, Pflug, Roach, Swecker and Zarelli were excused.

MOTION

On motion of Senator Regala, Senator Spanel was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6204.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6204 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, Weinstein and Zarelli - 43

Absent: Senators Kastama and Murray - 2

Excused: Senators Delvin, Hewitt, Spanel and Swecker - 4

SENATE BILL NO. 6204, 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.

SENATE BILL NO. 6677, by Senators Fraser, Roach, Fairley and McCaslin

Changing the composition of the board of directors of the Washington materials management and financing authority.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Senate Bill No. 6677 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.

MOTION

On motion of Senator Regala, Senators Kastama, McAuliffe and Murray were excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6677.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6677 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 1; Absent, 0; Excused, 6.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, Weinstein and Zarelli - 42

Voting nay: Senator Hatfield - 1

Excused: Senators Delvin, Hewitt, Kastama, McAuliffe, Spanel and Swecker - 6

SENATE BILL NO. 6677, 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. 6800, by Senators Hobbs, Oemig and Haugen

Concerning the disposition of publicly owned railroad infrastructure.

MOTION

On motion of Senator Hobbs, Substitute Senate Bill No. 6800 was substituted for Senate Bill No. 6800 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, line 10, after "purpose district", insert ", located in a county with a population greater than one million five

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hundred thousand, or in a county with a population greater than six hundred thousand that is located adjacent to and immediately north of a county with a population greater than one million, five hundred thousand,"

On page 2, line 2, after "district", insert ", located in a county with a population greater than one million five hundred thousand, or in a county with a population greater than six hundred thousand that is located adjacent to and immediately north of a county with a population greater than one million, five hundred thousand,"

Senator Benton spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 1, line 10 to Substitute Senate Bill No. 6800.

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

#### MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist, Hobbs and Haugen be adopted.

On page 1, line 16, after "construction;", insert "(d) incident to a project for which thirty percent or more of the preliminary engineering is complete as of the effective date of this act;"

On page 2, line 11, after "construction;", insert "(d) incident to a project for which thirty percent or more of the preliminary engineering is complete as of the effective date of this act;"

Renumber the subsections consecutively and correct any internal references accordingly.

Senator Holmquist 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 Holmquist, Hobbs and Haugen on page 1, line 16 to Substitute Senate Bill No. 6800.

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

#### MOTION

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

On page 2, after line 19, insert the following: "(4) When a local government, port district, rail district, or other special purpose district has received a good faith contract offer to purchase, lease, assume, or otherwise acquire the whole or any part of any railroad infrastructure and the governing body of that local government, port district, rail district, or other special purpose district has voted to approve the transaction, the department of transportation shall pay the difference between the value of the contract and the cost of fulfilling the contract to the local government, port district, rail district, or other special purpose district.

Senator Benton spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

Senator Hargrove spoke on adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, after line 19 to Substitute Senate Bill No. 6800.

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

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Substitute Senate Bill No. 6800 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and Hargrove 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. 6800.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6800 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Tom, Weinstein and Zarelli - 34

Voting nay: Senators Benton, Carrell, Delvin, Hewitt, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler and Stevens - 14

Excused: Senator Swecker - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6800, 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. 6799, by Senators Regala, Prentice and Fraser

Concerning the sourcing, for sales and use tax purposes, of sales of tangible personal property by florists.

The measure was read the second time.

#### MOTION

On motion of Senator Regala, the rules were suspended, Senate Bill No. 6799 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 Senate Bill No. 6799.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6799 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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



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Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 45

Voting nay: Senators Holmquist, McAuliffe and Tom - 3

Excused: Senator Swecker - 1

SENATE BILL NO. 6799, 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. 5628, by Senators Oemig, Fairley, Pridemore and Kohl-Welles

Adopting the interstate agreement for the election of the president of the United States by national popular vote.

MOTIONS

On motion of Senator Oemig, Substitute Senate Bill No. 5628 was substituted for Senate Bill No. 5628 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Oemig, the rules were suspended, Substitute Senate Bill No. 5628 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Oemig, Hatfield, Kline and Kastama spoke in favor of passage of the bill.

Senators Roach, Hargrove, Pflug, Zarelli, Benton, Schoesler, Carrell and Parlette spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5628.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5628 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Tom and Weinstein - 30

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hargrove, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Spanel, Stevens and Zarelli - 18

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 5628, 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. 6206, by Senators Zarelli, Pflug, Hargrove and Stevens

Modifying child fatality and near fatality reviews and reports. Revised for 2nd Substitute: Concerning agency reviews and reports regarding child abuse, neglect, and near fatalities.

MOTIONS

On motion of Senator Zarelli, Second Substitute Senate Bill No. 6206 was substituted for Senate Bill No. 6206 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Zarelli, the rules were suspended, Second Substitute Senate Bill No. 6206 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6206.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6206 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators 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, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 47

Absent: Senator Oemig - 1

Excused: Senator Swecker - 1

SECOND SUBSTITUTE SENATE BILL NO. 6206, 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.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the World Heritage Student Exchange Program who were seated in the gallery.

SECOND READING

SENATE BILL NO. 6264, by Senator Shin

Clarifying terms for workforce and economic development.

MOTIONS

On motion of Senator Shin, Substitute Senate Bill No. 6264 was substituted for Senate Bill No. 6264 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Shin, the rules were suspended, Substitute Senate Bill No. 6264 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Oemig was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6264.

ROLL CALL

The Secretary called the roll on the final passage of

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Substitute Senate Bill No. 6264 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6264, 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. 6295, by Senators Kilmer, Rockefeller, Hobbs, Shin, Franklin, Marr, Rasmussen, Kastama, Kauffman, Keiser, Kohl-Welles, Hatfield, Berkey and Regala

Creating workplace-based electronically distributed learning opportunities.

#### MOTION

On motion of Senator Kilmer, Substitute Senate Bill No. 6295 was substituted for Senate Bill No. 6295 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Kilmer moved that the following striking amendment by Senators Kilmer, Delvin and Shin be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that there are many working adults in Washington that need additional postsecondary educational opportunities to further develop their employability. The legislature further finds that many of these people postpone or call off their personal educational plans because they are busy working and raising their families. Because the largest portion of our workforce over the next thirty years is already employed but in need of skill development, and because many low-wage, low-skilled, and mid-skilled individuals cannot take advantage of postsecondary educational opportunities as they currently exist, the legislature intends to identify and test additional postsecondary educational opportunities tailored to make postsecondary education accessible to working adults through the use of campuses extended to include workplace-based educational offerings.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) To the extent funds are available for this purpose, the board shall identify and evaluate current national private employer workplace-based educational programs with distance learning components provided by public colleges and universities. The evaluation shall include:

(a) A review of the literature and direct surveys of practitioners about promising practices and net impact analysis;

(b) An initial determination of feasibility based on targeted populations served, subject matter, and level of education;

(c) An overview of technological considerations and adult learning strategies for distribution of learning to employer sites; and

(d) An overview of cost factors, including shared costs or co-investments by public and private partners.

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(2) The board shall report the results of the study and evaluation to appropriate committees of the legislature by December 1, 2008.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) To the extent funds are available for this purpose, the board shall use a matching fund strategy to select and evaluate up to eight pilot projects operated by Washington institutions of higher education. By September 2008, the board shall select up to eight institutions of higher education as defined in RCW 28B.92.030 including at least four community or technical colleges to develop and offer a pilot project providing employer workplace-based educational programs with distance learning components. The board shall convene a task force that includes representatives from the state board for community and technical colleges and the higher education coordinating board to select the participant institutions. At a minimum, the criteria for selecting the educational institutions shall address:

(a) The ability to demonstrate a capacity to make a commitment of resources to build and sustain a high quality program;

(b) The ability to readily engage faculty appropriately qualified to develop and deliver a high quality curriculum;

(c) The ability to demonstrate demand for the proposed program from a sufficient number of students within its service area to make the program cost-effective and feasible to operate; and

(d) The identification of available employers under subsection (3) of this section that demonstrate willingness to host an on-site program either because they demand the level of education proposed within the program or because they expect to accrue benefits of improved worker retention and productivity from employee engagement in higher education.

(2) Institutions of higher education may submit an application to become a pilot college under this section. An institution of higher education selected as a pilot college shall develop the curriculum for and design and deliver courses. However, the programs developed under this section are subject to approval by the state board for technical and community colleges under RCW 28B.50.090 and by the higher education coordinating board under RCW 28B.76.230.

(3) By September 2008, the board, in cooperation with the state board for community and technical colleges and the higher education coordinating board, shall select employers with the ability to offer employment and workplace-based educational programs with distance learning components in cooperation with the institutions selected under subsection (1) of this section. The selection criteria shall address:

(a) Access to educational coursework and educational advice and support for entry-level and semi-skilled workers, including paid and unpaid release time, and adequate classroom space that is equipped appropriately for the selected technological distance learning methodologies to be used;

(b) On-site promotion and encouragement of worker participation, including employee orientations, peer support and mentoring, educational tutoring, and career planning;

(c) Allowance of a reasonable level of worker choice in the type and level of coursework available;

(d) Commitment to work with college partner to ensure the relevance of coursework to the skill demands and potential career pathways of the employer host site and other participating employers; and

(e) Willingness to participate in an evaluation of the pilot to analyze the net benefit to the employer host site, other employer partners, the worker-students, and the colleges.

(4) In firms with union representation, the establishment of a labor-management committee to oversee design and participation shall be mandatory.

(5) Joint applications from institutions of higher education and private employers shall be encouraged.

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(6) The board shall evaluate the pilot project and report the outcomes to students and employers by December 1, 2012.

**NEW SECTION, Sec. 4.** A new section is added to chapter 28C.18 RCW to read as follows:

The board may receive and expend federal funds and private gifts or grants, which funds must be expended in accordance with any conditions upon which the funds are contingent.

**NEW SECTION, Sec. 5.** Sections 2 through 4 of this act expire December 31, 2012."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kilmer, Delvin and Shin to Substitute Senate Bill No. 6295.

The motion by Senator Kilmer 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 "learning;" strike the remainder of the title and insert "adding new sections to chapter 28C.18 RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute Senate Bill No. 6295 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6295.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6295 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6295, 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. 6341, by Senators Kauffman, Delvin and Marr

Concerning electronic data recorders in motor vehicles.

MOTIONS

On motion of Senator Kauffman, Substitute Senate Bill No. 6341 was substituted for Senate Bill No. 6341 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kauffman, the rules were suspended, Substitute Senate Bill No. 6341 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kauffman spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6341.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6341 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Tom, Weinstein and Zarelli - 42

Voting nay: Senators Honeyford, McCaslin, Parlette, Schoesler, Sheldon and Stevens - 6

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6341, 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. 6246, by Senator Honeyford

Authorizing travel expenses for certain industrial insurance medical aid claims. Revised for 1st Substitute: Authorizing travel expenses for closed industrial insurance claims.

MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 6246 was substituted for Senate Bill No. 6246 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 6246 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6246.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6246 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

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

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Weinstein and Zarelli - 46

Voting nay: Senators Holmquist and King - 2

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6246, 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. 6498, by Senator Tom

Modifying provisions concerning real estate licensure law.

## MOTIONS

On motion of Senator Tom, Substitute Senate Bill No. 6498 was substituted for Senate Bill No. 6498 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. 6498 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Holmquist and Honeyford 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. 6498.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6498 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 47

Voting nay: Senator Holmquist - 1

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6498, 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. 6400, by Senator Carrell

Establishing programs for the moral guidance of incarcerated persons.

## MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6400 was substituted for Senate Bill No. 6400 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. 6400 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Carrell 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. 6400.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6400 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 47

Voting nay: Senator Brandland - 1

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6400, 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.

## PARLIAMENTARY INQUIRY

Senator Kline: "I know that a substitute was just laid on the bar. I'm wondering if there's already a first substitute and is that the second? In which case, of course, I'll move to adopt the second."

## REPLY BY THE PRESIDENT

President Owen: "No, this is a striking amendment, not a substitute. So just move the substitute and then you would strike after you adopt the substitute."

## SECOND READING

SENATE BILL NO. 6776, by Senators Kline, Roach, Fraser, Fairley and Swecker

Modifying state whistleblower protections.

## MOTION

On motion of Senator Kline, Substitute Senate Bill No. 6776 was substituted for Senate Bill No. 6776 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Kline moved that the following striking amendment by Senators Kline, Benton and Roach be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds and declares that government exists to conduct the people's business, and the people remaining informed about the actions of government contributes to the oversight of how the people's business is conducted. The legislature further finds that many public servants who expose actions of their government that are contrary to the law or public interest face the potential loss of their careers and livelihoods.

It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these

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disclosures. It is also the policy of the legislature that employees should be encouraged to identify rules warranting review or provide information to the rules review committee, and it is the intent of the legislature to protect the rights of these employees.

This act shall be broadly construed in order to effectuate the purpose of this act.

**Sec. 2.** RCW 42.40.020 and 1999 c 361 s 1 are each amended to read as follows:

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Abuse of authority" means an arbitrary or capricious exercise of, or willful failure to exercise, power that adversely affects the rights of any person or that results in personal gain or advantage to himself, herself, or preferred other persons.

(2) "Auditor" means the office of the state auditor.

~~((2))~~ (3) "Employee" means any individual employed or holding office in any department or agency of state government.

~~((3))~~ (4) "Good faith" means the individual providing the information or report of improper governmental activity has a reasonable basis in fact for reporting or providing the information. ~~((communication))~~ information. ("Good faith" is lacking when the employee knows or reasonably ought to know that the report is malicious, false, or frivolous.) An individual who knowingly provides or reports malicious, false, or frivolous information, or information that is provided with reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.

~~((4))~~ (5) "Gross mismanagement" means the arbitrary or capricious exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.

(6) "Gross waste of funds" means to spend or use funds or to allow funds to be used without valuable result in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.

~~((5))~~ (7)(a) "Improper governmental action" means any action by an employee undertaken in the performance of the employee's official duties:

(i) Which is ~~((7))~~ a gross waste of public funds or resources as defined in this section;

(ii) Which is in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature; ~~((or))~~

(iii) Which is of substantial and specific danger to the public health or safety;

~~((iv))~~ Which is gross mismanagement;

~~((v))~~ Which is an abuse of authority; or

~~((vi))~~ Which prevents the dissemination of scientific opinion or alters technical findings without scientifically valid justification, unless state law or a common law privilege prohibits disclosure. This provision is not meant to preclude the discretion of agency management to adopt a particular scientific opinion or technical finding from among differing opinions or technical findings to the exclusion of other scientific opinions or technical findings. Nothing in this subsection prevents or impairs a state agency's or public official's ability to manage its public resources or its employees in the performance of their official job duties. This subsection does not apply to de minimis, technical disagreements that are not relevant for otherwise improper governmental activity. Nothing in this provision requires the auditor to contract or consult with external experts regarding the scientific validity, invalidity, or justification of a finding or opinion.

(b) "Improper governmental action" does not include personnel actions, for which other remedies exist, including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor

agreement violations, reprimands, claims of discriminatory treatment, or any action which may be taken under chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030.

~~((6))~~ (8) "Public official" means the attorney general or his or her designee or designees; the director, or equivalent thereof in the agency where the employee works; an appropriate number of individuals designated to receive whistleblower reports by the head of each agency; or the executive ethics board.

~~((9))~~ (9) "Substantial and specific danger" means a risk of serious injury, illness, peril, or loss, to which the exposure of the public is a gross deviation from the standard of care or competence which a reasonable person would observe in the same situation.

~~((7))~~ (10) "Use of official authority or influence" includes threatening, taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment including but not limited to duties and office location, reassignment, reinstatement, restoration, reemployment, performance evaluation, determining any material changes in pay, provision of training or benefits, tolerance of a hostile work environment, or any adverse action under chapter 41.06 RCW, or other disciplinary action.

~~((8))~~ (11) "Whistleblower" means an employee who in good faith reports, or is perceived by the employer as reporting, whether they did or not, alleged improper governmental action to the auditor or other public official, as defined in subsection (8) of this section, initiating an investigation under RCW 42.40.040. For purposes of the provisions of this chapter and chapter 49.60 RCW relating to reprisals and retaliatory action, the term "whistleblower" also means: (a) An employee who in good faith provides information to the auditor or other public official, as defined in subsection (8) of this section, in connection with an investigation under RCW 42.40.040 and an employee who is believed to have reported asserted improper governmental action to the auditor or other public official, as defined in subsection (8) of this section, or to have provided information to the auditor or other public official, as defined in subsection (8) of this section, in connection with an investigation under RCW 42.40.040 but who, in fact, has not reported such action or provided such information; or (b) an employee who in good faith identifies rules warranting review or provides information to the rules review committee, and an employee who is believed to have identified rules warranting review or provided information to the rules review committee but who, in fact, has not done so.

**Sec. 3.** RCW 42.40.030 and 1995 c 403 s 510 are each amended to read as follows:

(1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to: (a) Disclose to the auditor (or representative thereof) or other public official, as defined in RCW 42.40.020, information concerning improper governmental action; or (b) identify rules warranting review or provide information to the rules review committee.

(2) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law, except to the extent that information is necessary to substantiate the whistleblower complaint, in which case information may be disclosed to the auditor or public official, as defined in RCW 42.40.020, by the whistleblower for the limited purpose of providing information related to the complaint. Any information provided to the auditor or public official under the authority of this subsection may not be further disclosed.

**Sec. 4.** RCW 42.40.040 and 1999 c 361 s 3 are each amended to read as follows:

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(1)(a) In order to be investigated, an assertion of improper governmental action must be provided to the auditor or other public official within one year after the occurrence of the asserted improper governmental action. The public official, as defined in RCW 42.40.020, receiving an assertion of improper governmental action must report the assertion to the auditor within fifteen calendar days of receipt of the assertion. The auditor retains sole authority to investigate an assertion of improper governmental action including those made to a public official. A failure of the public official to report the assertion to the auditor within fifteen days does not impair the rights of the whistleblower.

(b) Except as provided under RCW 42.40.910 for legislative and judicial branches of government, the auditor has the authority to determine whether to investigate any assertions received. In determining whether to conduct either a preliminary or further investigation, the auditor shall consider factors including, but not limited to: The nature and quality of evidence and the existence of relevant laws and rules; whether the action was isolated or systematic; the history of previous assertions regarding the same subject or subjects or subject matter; whether other avenues are available for addressing the matter; whether the matter has already been investigated or is in litigation; the seriousness or significance of the asserted improper governmental action; and the cost and benefit of the investigation. The auditor has the sole discretion to determine the priority and weight given to these and other relevant factors and to decide whether a matter is to be investigated. The auditor shall document the factors considered and the analysis applied.

(c) The auditor also has the authority to investigate assertions of improper governmental actions as part of an audit conducted under chapter 43.09 RCW. The auditor shall document the reasons for handling the matter as part of such an audit.

(d) Except as provided under RCW 42.40.910, the auditor also has the authority to investigate, within available resources, reports of improper governmental activities made by whistleblowers to any public official pursuant to RCW 42.40.050.

(2) Subject to subsection (5)(c) of this section, the identity or identifying characteristics of a whistleblower is confidential at all times unless the whistleblower consents to disclosure by written waiver or by acknowledging his or her identity in a claim against the state for retaliation. In addition, the identity or identifying characteristics of any person who in good faith provides information in an investigation under this section is confidential at all times, unless the person consents to disclosure by written waiver or by acknowledging his or her identity as a witness who provides information in an investigation.

(3) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, within ~~((five))~~ fifteen working days of receipt of the information, mail written acknowledgement to the whistleblower at the address provided stating whether a preliminary investigation will be conducted. For a period not to exceed ~~((thirty))~~ sixty working days from receipt of the assertion, the auditor shall conduct such preliminary investigation of the matter as the auditor deems appropriate.

(4) In addition to the authority under subsection (3) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(5)(a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower summarizing where the allegations are deficient, and provide a reasonable opportunity to reply. Such notification may be by electronic means.

(b) The written notification shall contain a summary of the information received and of the results of the preliminary

investigation with regard to each assertion of improper governmental action.

(c) In any case to which this section applies, the identity or identifying characteristics of the whistleblower shall be kept confidential unless the auditor determines that the information has been provided other than in good faith. If the auditor makes such a determination, the auditor shall provide reasonable advance notice to the employee.

(d) With the agency's consent, the auditor may forward the assertions to an appropriate agency to investigate and report back to the auditor no later than sixty working days after the assertions are received from the auditor. The auditor is entitled to all investigative records resulting from such a referral. All procedural and confidentiality provisions of this chapter apply to investigations conducted under this subsection. The auditor shall document the reasons the assertions were referred.

(6) During the preliminary investigation, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts and laws known at the time and the procedure for the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation. This notification does not limit the auditor from considering additional facts or laws which become known during further investigation.

~~((7))~~(a) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower, the subject or subjects of the investigation, and the agency head and either conduct a further investigation or issue a report under subsection ~~((10))~~ (9) of this section.

(b) If the preliminary investigation resulted from an anonymous assertion, a decision to conduct further investigation shall be subject to review by a three-person panel convened as necessary by the auditor prior to the commencement of any additional investigation. The panel shall include a state auditor representative knowledgeable of the subject agency operations, a citizen volunteer, and a representative of the attorney general's office. This group shall be briefed on the preliminary investigation and shall recommend whether the auditor should proceed with further investigation.

(c) If further investigation is to occur, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts known at the time and the procedure to be used by the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation.

~~((8))~~ (7) Within sixty working days after the preliminary investigation period in subsection (3) of this section, the auditor shall complete the investigation and report its findings to the whistleblower unless written justification for the delay is furnished to the whistleblower, agency head, and subject or subjects of the investigation. In all such cases, the report of the auditor's investigation and findings shall be sent to the whistleblower within one year after the information was filed under subsection (3) of this section.

~~((9))~~ (8)(a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

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(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(c) Agencies shall cooperate fully in the investigation and shall take appropriate action to preclude the destruction of any evidence during the course of the investigation.

(d) During the investigation the auditor shall interview each subject of the investigation. If it is determined there is reasonable cause to believe improper governmental action has occurred, the subject or subjects and the agency head shall be given fifteen working days to respond to the assertions prior to the issuance of the final report.

~~((+0))~~ (9)(a) If the auditor determines there is reasonable cause to believe an employee has engaged in improper governmental action, the auditor shall report, to the extent allowable under existing public disclosure laws, the nature and details of the activity to:

(i) The subject or subjects of the investigation and the head of the employing agency; ~~(and)~~

(ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate;

(iii) Electronically to the governor, secretary of the senate, and chief clerk of the house of representatives; and

(iv) Except for information whose release is specifically prohibited by statute or executive order, the public through the public file of whistleblower reports maintained by the auditor.

(b) The auditor has no enforcement power except that in any case in which the auditor submits an investigative report containing reasonable cause determinations to the agency, the agency shall send its plan for resolution to the auditor within fifteen working days of having received the report. The agency is encouraged to consult with the subject or subjects of the investigation in establishing the resolution plan. The auditor may require periodic reports of agency action until all resolution has occurred. If the auditor determines that appropriate action has not been taken, the auditor shall report the determination to the governor and to the legislature and may include this determination in the agency audit under chapter 43.09 RCW.

~~((+1))~~ (10) Once the auditor concludes that appropriate action has been taken to resolve the matter, the auditor shall so notify the whistleblower, the agency head, and the subject or subjects of the investigation. If the resolution takes more than one year, the auditor shall provide annual notification of its status to the whistleblower, agency head, and subject or subjects of the investigation.

~~((+2))~~ (11) Failure to cooperate with such audit or investigation, or retaliation against anyone who assists the auditor by engaging in activity protected by this chapter shall be reported as a separate finding with recommendations for corrective action in the associated report whenever it occurs.

(12) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter.

**Sec. 5.** RCW 42.40.070 and 1989 c 284 s 5 are each amended to read as follows:

A written summary of this chapter and procedures for reporting improper governmental actions established by the auditor's office shall be made available by each department or agency of state government to each employee upon entering public employment. Such notices may be in agency internal newsletters, included with paychecks or stubs, sent via electronic mail to all employees, or sent by other means that are cost-effective and reach all employees of the government level, division, or subdivision. Employees shall be notified by each department or agency of state government each year of the procedures and protections under this chapter.

**Sec. 6.** RCW 42.40.050 and 1999 c 283 s 1 are each amended to read as follows:

(1)(a) Any person who is a whistleblower, as defined in RCW 42.40.020, and who has been subjected to workplace reprisal or retaliatory action is presumed to have established a cause of action for the remedies provided under chapter 49.60 RCW.

(b) For the purpose of this section, "reprisal or retaliatory action" means, but is not limited to, any of the following:

~~((+))~~ (i) Denial of adequate staff to perform duties;

~~((+))~~ (ii) Frequent staff changes;

~~((+))~~ (iii) Frequent and undesirable office changes;

~~((+))~~ (iv) Refusal to assign meaningful work;

~~((+))~~ (v) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;

~~((+))~~ (vi) Demotion;

~~((+))~~ (vii) Reduction in pay;

~~((+))~~ (viii) Denial of promotion;

~~((+))~~ (ix) Suspension;

~~((+))~~ (x) Dismissal;

~~((+))~~ (xi) Denial of employment;

~~((+))~~ (xii) A supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower; ~~(and)~~

~~((+))~~ (xiii) A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish;

~~((+))~~ (xiv) Issuance of or attempt to enforce any nondisclosure policy or agreement in a manner inconsistent with prior practice; or

~~((+))~~ (xv) Any other action that is inconsistent compared to actions taken before the employee engaged in conduct protected by this chapter, or compared to other employees who have not engaged in conduct protected by this chapter.

(2) The agency presumed to have taken retaliatory action under subsection (1) of this section may rebut that presumption by proving by a preponderance of the evidence showing that there have been a series of documented personnel problems or a single, egregious event, or that the agency action or actions were justified by reasons unrelated to the employee's status as a whistleblower and by showing that improper motive was not a substantial factor.

(3) Nothing in this section prohibits an agency from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. However, the agency also shall implement any order under chapter 49.60 RCW (other than an order of suspension if the agency has terminated the retaliator).

**Sec. 7.** RCW 49.60.230 and 1993 c 510 s 21 and 1993 c 69 s 11 are each reenacted and amended to read as follows:

(1) Who may file a complaint:

(a) Any person claiming to be aggrieved by an alleged unfair practice may, personally or by his or her attorney, make, sign, and file with the commission a complaint in writing under oath or by declaration. The complaint shall state the name of the person alleged to have committed the unfair practice and the particulars thereof, and contain such other information as may be required by the commission.

(b) Whenever it has reason to believe that any person has been engaged or is engaging in an unfair practice, the commission may issue a complaint.

(c) Any employer or principal whose employees, or agents, or any of them, refuse or threaten to refuse to comply with the provisions of this chapter may file with the commission a written complaint under oath or by declaration asking for assistance by conciliation or other remedial action.

(2) Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination except that complaints alleging an unfair practice in a real estate

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transaction pursuant to RCW 49.60.222 through 49.60.225 must be so filed within one year after the alleged unfair practice in a real estate transaction has occurred or terminated and a complaint alleging whistleblower retaliation must be filed within two years.

(3) On or before the third Monday in January of each year, the commission shall report to the governor and the legislature the number of retaliation reports it has received in the past year, the number of such reports that were substantiated, and the number of such cases still under consideration as well as how long each unresolved case has been under consideration. This information shall also be posted for public review on the agency web site.

**Sec. 8.** RCW 49.60.250 and 1993 c 510 s 23 and 1993 c 69 s 14 are each reenacted and amended to read as follows:

(1) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairperson of the commission. The chairperson of the commission shall thereupon request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the administrative law judge, at a time and place to be specified in such notice.

(2) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall the member or employee participate in the deliberations of the administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

(4) The administrative law judge conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

(5) If, upon all the evidence, the administrative law judge finds that the respondent has engaged in any unfair practice, the administrative law judge shall state findings of fact and shall issue and file with the commission and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the administrative law judge, will effectuate the purposes of this chapter, including action that could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed ~~((ten))~~ twenty thousand dollars, and including a requirement for report of the matter on compliance. Relief available for violations of RCW 49.60.222 through 49.60.224 shall be limited to the relief specified in RCW 49.60.225.

(6) If a determination is made that retaliatory action, as defined in RCW 42.40.050, has been taken against a whistleblower, as defined in RCW 42.40.020, the administrative law judge may, in addition to any other remedy, require restoration of benefits, back pay, and any increases in compensation that would have occurred, with interest; impose a civil penalty upon the retaliator of up to ~~((three))~~ five thousand dollars; and issue an order to the state employer to suspend the

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retaliator for up to thirty days without pay. At a minimum, the administrative law judge shall require that a letter of reprimand be placed in the retaliator's personnel file. No agency shall issue any nondisclosure order or policy, execute any nondisclosure agreement, or spend any funds requiring information that is public under the public records act, chapter 42.56 RCW, be kept confidential; except that nothing in this section shall affect any state or federal law requiring information be kept confidential. All penalties recovered shall be paid into the state treasury and credited to the general fund.

(7) The final order of the administrative law judge shall include a notice to the parties of the right to obtain judicial review of the order by appeal in accordance with the provisions of RCW 34.05.510 through 34.05.598, and that such appeal must be served and filed within thirty days after the service of the order on the parties.

(8) If, upon all the evidence, the administrative law judge finds that the respondent has not engaged in any alleged unfair practice, the administrative law judge shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(9) An order dismissing a complaint may include an award of reasonable attorneys' fees in favor of the respondent if the administrative law judge concludes that the complaint was frivolous, unreasonable, or groundless.

(10) The commission shall establish rules of practice to govern, expedite, and effectuate the foregoing procedure.

(11) Instead of filing with the commission, a complainant may pursue arbitration conducted by the American arbitration association or another arbitrator mutually agreed by the parties, with the cost of arbitration shared equally by the complainant and the respondent.

**Sec. 9.** RCW 42.40.910 and 1999 c 361 s 7 are each amended to read as follows:

This act and chapter 361, Laws of 1999 ((does)) do not affect the jurisdiction of the legislative ethics board, the executive ethics board, or the commission on judicial conduct, as set forth in chapter 42.52 RCW. The senate, the house of representatives, and the supreme court shall adopt policies regarding the applicability of chapter 42.40 RCW to the senate, house of representatives, and judicial branch."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline, Benton and Roach to Substitute Senate Bill No. 6776.

The motion by Senator Kline 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 "protection;" strike the remainder of the title and insert "amending RCW 42.40.020, 42.40.030, 42.40.040, 42.40.070, 42.40.050, and 42.40.910; reenacting and amending RCW 49.60.230 and 49.60.250; creating a new section; and prescribing penalties."

#### MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute Senate Bill No. 6776 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6776.



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## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6776 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6776, 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. 6193, by Senators Hargrove and Brandland

Giving county clerks authority to withhold and deliver funds from criminal defendants who owe legal financial obligations.

The measure was read the second time.

## MOTION

On motion of Senator Regala, the rules were suspended, Senate Bill No. 6193 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 Senate Bill No. 6193.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6193 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SENATE BILL NO. 6193, 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. 6060, by Senator Kline

Regarding unlawful detainer action proceedings and notice for nonpayment of rent. Revised for 1st Substitute: Addressing unlawful detainer actions based on nonpayment of rent.

## MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6060 was substituted for Senate Bill No. 6060 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. 6060 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. 6060.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6060 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6060, 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. 6950, by Senators Brown, Hewitt, Fraser, Brandland, Swecker, Hatfield, Rasmussen, Rockefeller, Stevens, Haugen, Zarelli, Pridemore, Parlette, Sheldon, Hobbs, Hargrove, Holmquist, Fairley, Prentice, Kauffman, Berkey, Kilmer, Kohl-Welles, Shin, Carrell, King, Schoesler, Morton, Delvin, Pflug, Honeyford and Eide

Providing a limited waiver or suspension of statutory obligations during officially declared emergencies.

The measure was read the second time.

## MOTION

On motion of Senator Fraser, the rules were suspended, Senate Bill No. 6950 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Sheldon 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. 6950.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6950 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford,

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Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SENATE BILL NO. 6950, 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. 6308, by Senators Rockefeller, Regala, Murray, Kohl-Welles, Marr, Pridemore, Oemig, Kilmer, Jacobsen, Kline, Shin and McAuliffe

Preparing for and adapting to climate change.

#### MOTION

On motion of Senator Rockefeller, Substitute Senate Bill No. 6308 was substituted for Senate Bill No. 6308 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 Rockefeller be adopted.

On page 2, line 8, after "act.", insert "All members of work groups must live in the state of Washington."

Senator Honeyford 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 Rockefeller on page 2, line 8 to Engrossed Substitute Senate Bill No. 6308.

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

#### MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford and Rockefeller be adopted.

On page 3, line 26, after "travel.", insert "In the event that meetings are held so that interested parties may attend in person, the meetings shall alternate between eastern and western Washington."

Senator Honeyford 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 Rockefeller on page 3, line 26 to Engrossed Substitute Senate Bill No. 6308.

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

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute Senate Bill No. 6308 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Delvin 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. 6308.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6308 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Tom and Zarelli - 42

Voting nay: Senators Delvin, Hewitt, Holmquist, King and Schoesler - 5

Absent: Senator Weinstein - 1

Excused: Senator Swecker - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6308, 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. 6343, by Senators Morton, Carrell and Roach

Authorizing small scale prospecting and mining in certain areas. Revised for 1st Substitute: Creating a pilot program to examine the impacts of small scale mineral prospecting on coastal areas.

#### MOTION

On motion of Senator Jacobsen, Substitute Senate Bill No. 6343 was substituted for Senate Bill No. 6343 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 6343 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Morton and Jacobsen 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. 6343.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6343 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller,

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Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 45

Voting nay: Senators Fairley, Fraser and Kohl-Welles - 3

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6343, 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. 6333, by Senators Keiser, Kohl-Welles, Marr and McAuliffe

Establishing a citizens' work group on health care.

MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 6333 was substituted for Senate Bill No. 6333 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 5, beginning on line 7, after "proposal" strike all material through "connector" on line 8, and insert "to establish a health insurance exchange or connector, similar to Senate Bill No. 6574 (2008) and to the federal employee health benefit plan"

Senator Pflug 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 Pflug and Keiser on page 5, line 7 to Substitute Senate Bill No. 6333.

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

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 6333 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6333.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6333 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 31

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli - 17

Excused: Senator Swecker - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6333, 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. 6760, by Senators Regala, Zarelli, Rasmussen, Roach and Fairley

Requiring an exchange of land parcels on the Fircrest school campus and modifying the developmental disabilities community trust account. Revised for 1st Substitute: Concerning the developmental disabilities trust account.

MOTION

On motion of Senator Regala, Substitute Senate Bill No. 6760 was substituted for Senate Bill No. 6760 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Regala moved that the following amendment by Senator Regala and others be adopted.

On page 1, on line 7, after "the use of" delete "or disposal of"

On page 1, on line 15, after "or other" delete "((activities short of sale of the property)) means of disposal of surplus land at fair market value as provided under state law" and insert "activities short of sale of the property"

On page 2, on line 8, after "trust account" delete all material through "excess property" on line 9.

Senators Regala and Roach 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 Regala and others on page 1, line 7 to Substitute Senate Bill No. 6760.

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

MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Substitute Senate Bill No. 6760 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.

MOTION

On motion of Senator Rockefeller, Senators Murray and Tom were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6760.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6760 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

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Excused: Senators Murray, Swecker and Tom - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 6760, 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. 6892, by Senators Fraser, Brandland, Pridemore, McAuliffe and Rasmussen

Concerning the time limits of school impact fee expenditures.

The measure was read the second time.

#### MOTION

On motion of Senator Fraser, the rules were suspended, Senate Bill No. 6892 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Regala, Senator Haugen was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6892.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6892 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 15; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Pflug, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel and Weinstein - 30

Voting nay: Senators Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli - 15

Excused: Senators Haugen, Murray, Swecker and Tom - 4

SENATE BILL NO. 6892, 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. 6340, by Senators Rockefeller, Morton, Sheldon, Swecker, Hobbs, Berkey and Kilmer

Providing for a water system acquisition and rehabilitation

program.

#### MOTIONS

On motion of Senator Rockefeller, Substitute Senate Bill No. 6340 was substituted for Senate Bill No. 6340 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. 6340 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.

#### MOTION

On motion of Senator Regala, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6340.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6340 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 44

Excused: Senators Haugen, Kline, Murray, Swecker and Tom - 5

SUBSTITUTE SENATE BILL NO. 6340, 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. 6307, by Senators Rockefeller, Kilmer, Jacobsen and Kohl-Welles

Regarding marine managed areas.

#### MOTION

On motion of Senator Rockefeller, Substitute Senate Bill No. 6307 was substituted for Senate Bill No. 6307 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 3, beginning on line 6, after "(8)" strike all material through "area." on line 10 and insert "Marine managed area" means a named, discrete geographic marine or estuarine area designated by statute, or by the action of a city, town, or county legislative body, the designation of which is intended to protect, conserve, or otherwise manage the marine life and resources within the area."

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Senator Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 3, line 6 to Substitute Senate Bill No. 6307.

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

#### MOTION

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

On page 3, line 8, after "action," insert "in compliance with RCW 79.105.060(1)."

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 3, line 8 to Substitute Senate Bill No. 6307.

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

#### MOTION

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

On page 5, after line 34, insert the following:

**"NEW SECTION. Sec. 4.** (1) The legislature finds that many sewage treatment facilities in the Puget Sound watershed manage excess capacity not by building extra containment facilities or minimizing passive introductions, but by allowing raw and untreated human sewage and storm drain collections to flow directly into the Puget Sound. This practice, although destructive to the Puget Sound's ecosystem, is a legal activity and an accepted practice under the national pollution discharge elimination system permit held by most sewage treatment facilities.

(2) The legislature further finds that recent years have brought with them significant investments in the health of Puget Sound, both by the state, federal government, tribal governments, nonprofit organizations, and the business community. These investments have come in the form of policy initiatives, financial contributions, and countless hours of volunteer labor.

(3) The legislature further finds that although sewage treatment facilities may be technically allowed to discharge untreated sewage into the Puget Sound, that does not mean that the entities responsible for the facilities should be entitled to receive recognition as a Puget Sound partner, and the benefits that come with the designation, while actively embracing policies that result in a significant undermining of the investments made to restore the health of Puget Sound.

(4) Therefore, it is the intent of the legislature to avoid the creation of a mechanism that rewards sewage treatment facilities for operating in a way that is destructive to the health of Puget Sound, and to send a strong message to sewage treatment facilities that there is a difference between how they are legally permitted to operate and how they should choose to operate as good neighbors to a treasured and imperiled aquatic ecosystem.

**Sec. 5.** RCW 90.71.340 and 2007 c 341 s 16 are each amended to read as follows:

(1) The legislature intends that fiscal incentives and disincentives be used as accountability measures designed to achieve consistency with the action agenda by:

(a) Ensuring that projects and activities in conflict with the action agenda are not funded;

(b) Aligning environmental investments with strategic priorities of the action agenda; and

(c) Using state grant and loan programs to encourage consistency with the action agenda.

(2) The council shall adopt measures to ensure that funds appropriated for implementation of the action agenda and identified by proviso or specifically referenced in the omnibus appropriations act pursuant to RCW 43.88.030(1)(g) are expended in a manner that will achieve the intended results. In developing such performance measures, the council shall establish criteria for the expenditure of the funds consistent with the responsibilities and timelines under the action agenda, and require reporting and tracking of funds expended. The council may adopt other measures, such as requiring interagency agreements regarding the expenditure of provided or specifically referenced Puget Sound funds.

(3) The partnership shall work with other state agencies providing grant and loan funds or other financial assistance for projects and activities that impact the health of the Puget Sound ecosystem under chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and 90.50A RCW to, within the authorities of the programs, develop consistent funding criteria that prohibits funding projects and activities that are in conflict with the action agenda.

(4)(a)(i) The partnership shall develop a process and criteria by which entities that consistently achieve outstanding progress in implementing the action agenda are designated as Puget Sound partners.

(ii) No public entity may be named a Puget Sound partner if that entity operates a sewage treatment system and:

(A) Has as a condition of its national pollution discharge elimination system permit, or other government approval of its operations, a provision to discharge untreated sewage into the Puget Sound during storm events; and

(B) Has actually discharged more than one million gallons of untreated sewage in any one hour, either lawfully or unlawfully, into the Puget Sound within the previous five years.

(b) State agencies shall work with the partnership to revise their grant, loan, or other financial assistance allocation criteria to create a preference for entities designated as Puget Sound partners for funds allocated to the Puget Sound basin, pursuant to RCW 43.155.070, 70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520, and 90.50A.040. This process shall be developed on a timeline that takes into consideration state grant and loan funding cycles.

(5) Any entity that receives state funds to implement actions required in the action agenda shall report biennially to the council on progress in completing the action and whether expected results have been achieved within the time frames specified in the action agenda."

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

On page 1, line 2 of the title, after "90.71.010," insert "90.71.340,"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 5, after line 34 to Substitute Senate Bill No. 6307.

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

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute Senate Bill No. 6307 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.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6307.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6307 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 12; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Oemig, Pflug, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel and Weinstein - 32

Voting nay: Senators Benton, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Roach, Schoesler, Stevens and Zarelli - 12

Excused: Senators Haugen, Kline, Murray, Swecker and Tom - 5

SUBSTITUTE SENATE BILL NO. 6307, 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. 6492, by Senators McAuliffe, Stevens, Brandland, Carrell, Regala and Delvin

Regarding public disclosure of civil confinement facility information.

The measure was read the second time.

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Senate Bill No. 6492 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe 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. 6492.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6492 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove,

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Excused: Senators Haugen, Murray, Swecker and Tom - 4

SENATE BILL NO. 6492, 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. 6607, by Senators Spanel, Haugen and Rasmussen

Exempting certain dairy animal feeding operations from shellfish protection district wastewater discharge assessments. Revised for 1st Substitute: Regarding shellfish protection district wastewater discharge fees, rates, and charges.

#### MOTIONS

On motion of Senator Spanel, Substitute Senate Bill No. 6607 was substituted for Senate Bill No. 6607 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Spanel, the rules were suspended, Substitute Senate Bill No. 6607 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Regala, Senator Fairley was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6607.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6607 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 43

Absent: Senator Pridemore - 1

Excused: Senators Fairley, Haugen, Murray, Swecker and Tom - 5

SUBSTITUTE SENATE BILL NO. 6607, 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. 6744, by Senators Fraser and Fairley

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Concerning homeowners' associations.

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The measure was read the second time.

MOTION

On motion of Senator Fraser, Substitute Senate Bill No. 6744 was not substituted for Senate Bill No. 6744 and the substitute bill was not adopted.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1 (1) By December 10, 2008, the department of community, trade, and economic development shall conduct a study of improved dispute resolution processes for homeowners' association members and boards of directors. The study shall evaluate the feasibility of creating either state or local appeals boards or state or local ombudsman offices to provide dispute resolution services and information to homeowners' association members and boards of directors about their rights and duties under chapter 64.38 RCW. The study must include:

(a) Trends in the number of housing communities or cooperatives subject to chapter 64.38 RCW and the number of people living in them;

(b) The estimated number of homeowners' association members and boards of directors who would make use of the ombudsman or appeals board services;

(c) The estimated expense of providing such services and potential sources of revenue to support them;

(d) A recommendation regarding whether such services should be provided; and

(e) If such services are recommended, the structures and procedures for providing the services and potential revenues for financing them.

(2) The department of community, trade, and economic development shall appoint an advisory committee of up to twelve members to assist with the study. The speaker of the house of representatives and the majority leader of the senate may each appoint one representative and one senator from each of the two largest caucuses to serve on the advisory committee on an ex officio basis. Legislative and nonlegislative members of the advisory committee shall receive travel expense reimbursement in accordance with RCW 44.04.120, 43.03.050, and 43.03.060.

(3) Administrative and clerical support shall be provided by the department of community, trade, and economic development.

(4) Recommendations shall be reported to the legislature and governor by December 10, 2008.

NEW SECTION. Sec. 2 (1) The department of community, trade, and economic development shall create a task force of up to thirteen members to provide recommendations on model declarations and a method for distributing information on homeowners' associations to prospective buyers. The task force shall draft one or more model declarations for use by declarants forming homeowners' associations. In developing the model declarations, the task force shall review declarations creating homeowners' associations that are currently used in Washington state and other states. The task force shall also draft proposed legislation that provides an effective method for distributing

information about a lot's homeowners' association to that lot's prospective buyer. In developing the proposed legislation, the task force shall review the methods used in Washington state and other states.

(2) The task force membership shall include:

(a) Two board members representing two different homeowners' associations;

(b) Three homeowners who own a home that is their primary residence in a community or cooperative that is governed by chapter 64.38 RCW;

(c) Two attorneys with expertise in homeowners' association formation;

(d) A representative from the department of community, trade, and economic development; and

(e) A representative of city governments.

The speaker of the house of representatives and the majority leader of the senate may each appoint one representative and one senator from each of the two largest caucuses to serve on the task force on an ex officio basis.

(3) The task force shall convene as soon as possible upon the appointment of its members. The task force shall elect a chair and adopt rules for conducting the business of the task force. Administrative and clerical support shall be provided by the department of community, trade, and economic development.

(4) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120.

(5) By December 10, 2008, the task force shall provide a report of recommended model declarations and proposed legislation to the legislature and the governor.

NEW SECTION. Sec. 3 This act expires December 31, 2008."

Senators Fraser and Honeyford spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Fraser and others to Senate Bill No. 6744.

The motion by Senator Fraser 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 "associations;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Senate Bill No. 6744 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 Engrossed Senate Bill No. 6744.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6744 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove,

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Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 44

Voting nay: Senator Schoesler - 1

Excused: Senators Haugen, Murray, Swecker and Tom - 4

ENGROSSED SENATE BILL NO. 6744, 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. 6739, by Senators Franklin, Prentice, Marr and Jacobsen

Granting authority to psychiatric advanced registered nurse practitioners.

The measure was read the second time.

#### MOTION

On motion of Senator Franklin, the rules were suspended, Senate Bill No. 6739 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.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6739.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6739 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 45

Excused: Senators Haugen, Murray, Swecker and Tom - 4

SENATE BILL NO. 6739, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 4:58 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### EVENING SESSION

The Senate was called to order at 7:00 p.m. by President Owen.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9332, George Masten, as a member of the Investment Board, be confirmed.

Senator Fraser spoke in favor of the motion.

#### MOTION

On motion of Senator Brandland, Senators Delvin, Schoesler and Swecker were excused.

#### MOTION

On motion of Senator Regala, Senator Brown was excused.

#### APPOINTMENT OF GEORGE MASTEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9332, George Masten as a member of the Investment Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9332, George Masten as a member of the Investment Board and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 6; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Tom and Zarelli - 41

Absent: Senators Hargrove, Jacobsen, Kline, McAuliffe, Shin and Weinstein - 6

Excused: Senators Delvin and Swecker - 2

Gubernatorial Appointment No. 9332, George Masten, having received the constitutional majority was declared confirmed as a member of the Investment Board.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Berkey moved that Gubernatorial Appointment No. 9371, Mike Ragan, as a member of the Investment Board, be confirmed.

Senator Berkey spoke in favor of the motion.

#### MOTION

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

#### APPOINTMENT OF MIKE RAGAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9371, Mike Ragan as a member of the Investment Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9371, Mike Ragan as a member of the Investment Board and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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



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Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 46

Excused: Senators Kline, McAuliffe and Swecker - 3

Gubernatorial Appointment No. 9371, Mike Ragan, having received the constitutional majority was declared confirmed as a member of the Investment Board.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Parlette moved that Gubernatorial Appointment No. 9369, Glenn Gorton, as a member of the Investment Board, be confirmed.

Senator Parlette spoke in favor of the motion.

APPOINTMENT OF GLENN GORTON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9369, Glenn Gorton as a member of the Investment Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9369, Glenn Gorton as a member of the Investment Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 47

Excused: Senators Kline and Swecker - 2

Gubernatorial Appointment No. 9369, Glenn Gorton, having received the constitutional majority was declared confirmed as a member of the Investment Board.

SECOND READING

SENATE BILL NO. 6745, by Senator Fraser

Concerning homeowners' associations.

The measure was read the second time.

MOTION

On motion of Senator Fraser, Substitute Senate Bill No. 6745 was not substituted for Senate Bill No. 6745 and the substitute bill was not adopted.

MOTION

Senator Fraser moved that the following striking amendment by Senators Fraser, Haugen and Weinstein be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 64.38.005 and 1995 c 283 s 1 are each amended to read as follows:

The intent of this chapter is to provide consistent laws regarding the formation and legal administration of homeowners' associations. Unless otherwise provided in this chapter, this chapter applies to all homeowners' associations in the state, regardless of when the declaration was recorded or the association was established.

NEW SECTION. Sec. 2. A new section is added to chapter 64.38 RCW to read as follows:

An obligation of good faith is imposed in the performance and enforcement of all contracts and duties governed by this chapter and in all other transactions involving declarants, associations, and their members.

For purposes of this section, "good faith" means honesty in fact and the observance of reasonable standards of fair dealing.

Sec. 3. RCW 64.38.010 and 1995 c 283 s 2 are each amended to read as follows:

For purposes of this chapter:

(1) "Homeowners' association" or "association" means a corporation, unincorporated association, or other legal entity, each member of which is an owner of residential real property located within the association's jurisdiction, as described in the governing documents, and by virtue of membership (~~or ownership of property~~), the owner is obligated to pay (~~real property taxes, insurance premiums, maintenance costs, or for improvement of real property other than that which is owned by the member~~) assessments pursuant to the governing documents. "Homeowners' association" does not mean an association created under chapter 64.32 or 64.34 RCW.

(2) "Governing documents" means the declaration, articles of incorporation, bylaws, (~~plat, declaration of covenants, conditions, and restrictions,~~) rules and regulations of the association, or other written instrument by which the association has the authority to exercise any of the powers provided for in this chapter or to manage, maintain, or otherwise affect the property under its jurisdiction.

(3) "Board of directors" or "board" means the body, regardless of name, with primary authority to manage the affairs of the association.

(4) "Common areas" means property owned, or otherwise maintained, repaired or administered by the association.

(5) "Common expense" means the costs incurred by the association to exercise any of the powers provided for in this chapter.

(6) "Residential real property" means any real property, the use of which is limited by law, covenant or otherwise to primarily residential or recreational purposes.

(7) "Assessment" means all sums chargeable by the association against a lot including, without limitation:

(a) Regular and special assessments for common expenses, charges, and fines imposed by the association;

(b) Interest and late charges on any delinquent account; and

(c) Costs of collection, including reasonable attorneys' fees, incurred by the association in connection with the collection of an owner's delinquent account.

This subsection (7) supersedes any inconsistent provision in the governing documents.

(8) "Bylaws" means the code adopted for the regulation or management of the internal affairs of the association, irrespective of the designated name of that code. If an association is incorporated under Title 23 or 24 RCW, "bylaws" means the definition assigned to "bylaws" in the act pursuant to which the association is incorporated.

(9) "Community" means residential real property that is subject to a declaration under which an association is established for governance of the community.

(10) "Cooperative" means a community in which the residential real property is owned by an association where each of those members is entitled, by virtue of his or her ownership

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interest in the association, to exclusive possession of a portion of the property.

(11) "Declarant" means any person who executes as a declarant a declaration or succeeds to the rights of a declarant pursuant to an instrument recorded in the real property records of every county in which any portion of the community is located.

(12) "Declaration" means the declaration of covenants, conditions, and restrictions or any other document, however denominated, that is recorded in every county in which any portion of the community is located and that provides for the establishment of an association to govern the community. In the case of a cooperative, "declaration" means the document or documents, however denominated, that create the cooperative housing association that owns the residential real property comprising the cooperative, whether or not the document or documents are recorded.

(13) "Lot" means a physical portion of a community designated for separate ownership or occupancy and designated for residential use, the boundaries of which are described in the real property records of every county in which any portion of the community is located. Within a cooperative, "lot" means that portion of the community designated for exclusive possession by a member of the cooperative's association. "Lot" does not mean an apartment created under chapter 64.32 RCW or a unit created under chapter 64.34 RCW.

(14) "Owner" means a declarant or other person who owns a lot, but does not include a person who has an interest in a lot solely as security for an obligation. Under a real estate contract, "owner" means the vendee, not the vendor.

(15) "Person" means a natural person, corporation, partnership, limited partnership, trust, government subdivision or agency, or other legal entity.

(16) "Rules" means the rules, regulations, and policies, irrespective of their designated name, that are adopted by the members of the board of an association in accordance with the governing documents and that supplement, but do not contradict or contravene, the governing documents.

**Sec. 4.** RCW 64.38.015 and 1995 c 283 s 3 are each amended to read as follows:

The membership of an association at all times shall consist exclusively of the owners of all real property over which the association has jurisdiction, both developed and undeveloped or, in the case of a cooperative, the members of the association who by virtue of their ownership interest in the association have exclusive possession of a lot.

**Sec. 5.** RCW 64.38.020 and 1995 c 283 s 4 are each amended to read as follows:

Unless otherwise provided in the ~~((governing documents))~~ declaration, an association may:

(1) Adopt and amend bylaws, resolutions, policies, rules, and regulations that are not inconsistent with the declaration or with this chapter;

(2) Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for common expenses from owners;

(3) Hire and discharge or contract with managing agents and other employees, agents, and independent contractors;

(4) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more owners on matters affecting the homeowners' association, but not on behalf of owners involved in disputes that are not the responsibility of the association;

(5) Make contracts and incur liabilities;

(6) Regulate the use, maintenance, repair, replacement, and modification of common areas;

(7) Cause additional improvements to be made as a part of the common areas;

(8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property;

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(9) Grant easements, leases, licenses, and concessions through or over the common areas and petition for or consent to the vacation of streets and alleys;

(10) Impose and collect any payments, fees, or charges for the use, rental, or operation of the common areas;

(11) Impose and collect charges for late payments of assessments ~~((and, after notice and an opportunity to be heard by the board of directors or by the representative designated by the board of directors and in accordance with the procedures as provided in the bylaws or rules and regulations adopted by the board of directors, levy reasonable fines in accordance with a previously established schedule adopted by the board of directors and furnished to the owners for violation of the bylaws, rules, and regulations of the association));~~

(12) Take enforcement action with respect to any violation of the governing documents;

(13) After notice and an opportunity to be heard by the board of directors or by the representative designated by the board of directors, and in accordance with the procedures provided in the governing documents, levy reasonable fines in accordance with a previously established schedule adopted by the board of directors and furnished to the owners for violations of the governing documents;

(14) Exercise any other powers conferred by the declaration, articles, or bylaws;

~~((13))~~ (15) Exercise all other powers that may be exercised in this state by the same type of ((corporation)) legal entity as the association, provided those powers do not conflict with any duties imposed on an association in this chapter; and

~~((14))~~ (16) Exercise any other powers necessary and proper for the governance and operation of the association.

**NEW SECTION. Sec. 6.** A new section is added to chapter 64.38 RCW to read as follows:

(1) This section establishes voluntary procedures for the enforcement of governing documents.

(2) A homeowners' association is deemed to have provided notice and an opportunity to be heard as required under RCW 64.38.020(13) if the association fulfills the following requirements:

(a) The association must provide the owner with a notice of the violation that contains:

(i) A reference to the rule or rules that the owner allegedly violated;

(ii) A short statement of the evidence of the rule violation;

(iii) The name of a person with firsthand knowledge of the facts that support the determination that the violation occurred;

(iv) A short statement of the action that the association intends to take, including the amount of any fine, subject to the owner's right to request a hearing;

(v) A statement that if the owner wishes to contest or explain the violation, he or she must submit a written request for a hearing to the association within fifteen days of delivery of the notice of violation;

(vi) A statement of the owner's rights to a hearing, to attend the hearing, to be represented by counsel, and to review the evidence supporting the alleged violation;

(b) Upon the timely request for a hearing from an owner, the association must set a hearing date no less than thirty and no more than sixty days from the association's receipt of the request. The association must notify the owner of the hearing at least twenty days before the hearing and must include with the notification a copy of the association's rules of procedure for conducting a hearing;

(c) Upon a timely request by the owner who requested a hearing, the association must, at least ten days before the date of the hearing, either provide the owner with a copy of all its evidence concerning the alleged violation, including copies of the complaint signed by a witness with firsthand knowledge of the facts that support the determination that the violation occurred, or identify a reasonable time and place at which the owner may inspect such evidence;

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(d) The association must permit the owner to be represented by counsel at the hearing; and

(e) The association must provide the owner with a written decision, including a statement of the reasons for the decision, within thirty days after the hearing.

(3) The chair of the hearing may adjourn or continue the hearing, if necessary, to gather additional information that the association needs in order to make a decision.

(4) If an owner does not request a hearing within fifteen days of the association's delivery of the notice of violation, the association may take the remedial action stated in the notice, including the imposition of any fine listed in the notice.

**Sec. 7.** RCW 64.38.025 and 1995 c 283 s 5 are each amended to read as follows:

(1) Except as provided in the association's governing documents or this chapter, the board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers of the association and members of the board of directors shall exercise the degree of care and loyalty required of an officer or director of a corporation organized under chapter 24.03 RCW.

(2) The board of directors shall not act on behalf of the association to amend the articles of incorporation, to take any action that requires the vote or approval of the owners, to terminate the association, to elect members of the board of directors, or to determine the qualifications, powers, and duties, or terms of office of members of the board of directors; but the board of directors may fill vacancies in its membership of the unexpired portion of any term.

~~((3) Within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of a majority of the votes in the association are allocated or any larger percentage specified in the governing documents reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget proposed by the board of directors.~~

~~(4) The owners by a majority vote of the voting power in the association present, in person or by proxy, and entitled to vote at any meeting of the owners at which a quorum is present, may remove any member of the board of directors with or without cause.))~~

**NEW SECTION. Sec. 8.** A new section is added to chapter 64.38 RCW to read as follows:

A board of directors may by majority vote incorporate an unincorporated homeowners' association as a nonprofit corporation.

**NEW SECTION. Sec. 9.** A new section is added to chapter 64.38 RCW to read as follows:

Notwithstanding any inconsistent provision in the governing documents or other applicable statutes, any member of the board of directors may be removed with or without cause by a majority vote of the owners (1) entitled to elect the board member and present, in person or by proxy, and (2) entitled to vote at any regular or special meeting of the owners at which a quorum is present.

**Sec. 10.** RCW 64.38.030 and 1995 c 283 s 6 are each amended to read as follows:

Unless provided for in the ~~((governing documents)) declaration~~, the bylaws of the association ~~((shall)) must contain provisions that are consistent with this chapter and provide for:~~

(1) The number, qualifications, powers and duties, terms of office, and manner of electing and removing the board of directors and officers of the association and filling vacancies;

(2) Election by the board of directors of the officers of the association as the bylaws specify;

(3) Which, if any, of its powers the board of directors or officers of the association may delegate to other persons or to a managing agent;

(4) Which of its officers may prepare, execute, certify, and record amendments to the governing documents on behalf of the association;

(5) The method of amending the bylaws; and

~~(6) ((Subject to the provisions of the governing documents,)) Any other matters the association deems necessary and appropriate.~~

**NEW SECTION. Sec. 11.** A new section is added to chapter 64.38 RCW to read as follows:

(1) The association must provide the homeowner with the documents and records reasonably requested by the homeowner to furnish a buyer with the resale certificate required in this section.

(2) Unless waived in writing by the buyer and except as provided under subsection (5) of this section, in a transaction for the sale of a lot that is subject to this chapter, the seller shall furnish to the buyer a resale certificate signed by an officer or authorized agent of the association and based on the books and records of the association and the actual knowledge of the person signing the certificate containing:

(a) A statement setting forth the amount of the annual assessment due from the seller, any unpaid assessment currently due and payable from the seller, and a statement of any special assessments that have been levied against the lot and have not been paid even though they are not yet due;

(b) A statement, which must be current to within forty-five days, of whether the sum of assessments that are delinquent under the association's reasonable delinquency policy exceeds ten percent of the association's budgeted annual expenditures and, if so, the total number of lots that are delinquent under the delinquency policy;

(c) A statement, which must be current to within forty-five days, of whether any obligation or liability of the association in excess of the lesser of ten thousand dollars or five percent of the association's budgeted annual expenditures that is sixty days or more past due and, if so, the circumstances that account for this delinquency;

(d) A statement of any anticipated repair or replacement costs approved by the board of directors that exceed five percent of the association's current budgeted annual expenditures;

(e) A statement of the amount of any reserves for repair or replacement and of any portions of those reserves currently designated by the association for any specified projects;

(f) The annual financial statement of the association, including the audit report if it has been prepared, for the year immediately preceding the current year;

(g) A balance sheet and a revenue and expense statement of the association, which must be current to within one hundred twenty days;

(h) The current adopted budget of the association;

(i) A statement of any unsatisfied judgments against the association and the status of any pending suits or legal proceedings in which the association is a plaintiff or defendant;

(j) A statement describing any insurance coverage maintained by the association;

(k) A statement as to whether there are any alterations or improvements to the seller's lot that the association has determined violate any provision of the governing documents;

(l) A statement of whether the association is under declarant control;

(m) A statement as to whether there are any known and currently existing violations of applicable health or building codes with respect to the lot or improvements located on the lot, or any portions of the common areas or improvements of the common areas; and

(n) A copy of the governing documents that include the following, if applicable:

(i) The plat maps and declaration;

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- (ii) The articles of incorporation;
- (iii) Bylaws, rules, regulations, and policies, if any, including architectural and construction standards and guidelines;
- (iv) The association's current fine schedule;
- (v) A copy of the minutes of the most recent meeting of the members of the association, minutes of the previous six meetings of the board of directors, except that minutes of a board meeting that occurred more than three years before the date of the resale certificate required under this section does not need to be provided; and
- (vi) Any other information reasonably requested by the seller on behalf of the mortgagees of prospective buyers.

The association may charge a fee for photocopying costs not to exceed fifteen cents per page for providing any of the documents required to be disclosed in this subsection. The duty to provide copies of documents that are recorded in the recording office of the county in which the lot is located is satisfied if the association identifies in the resale certificate a link to a web site in which copies of the recorded documents can be obtained. The duty to provide copies of documents that are publicly available on the association's web site is satisfied if the association identifies in the resale certificate a link to its web site. The duty to provide copies of the documents required to be disclosed in this subsection is satisfied if the association provides the documents via compact disc or other electronic storage device or via electronic transmission to an email address that the seller who requests the issuance of a resale certificate shall provide to the association.

(3)(a) The association, within ten days after a request by a seller, and subject to the seller's payment of a reasonable fee not to exceed one hundred fifty dollars, shall furnish to the seller a resale certificate signed by an officer or authorized agent of the association and containing the information necessary to enable the seller to comply with this section.

(b) The association may charge a seller a nominal fee for updating a resale certificate within six months of the seller's request.

(4) The seller shall sign the resale certificate, but the seller is not liable to the buyer for any erroneous information provided by the association and included in the resale certificate unless, and to the extent, the seller had actual knowledge of the erroneous information.

(5) The resale certificate is not required in real property transfers that occur between commercial buyers and sellers or those transfers listed in RCW 64.06.010.

(6) The resale certificate must be attached to the seller disclosure statement required under RCW 64.06.020 unless the buyer has waived the right to receive a seller disclosure statement as provided under chapter 64.06 RCW.

(7) The timing of delivery of the seller's disclosures to the buyer under this section is governed by RCW 64.06.030. A buyer may rescind an agreement for the purchase and sale of a lot in accordance with RCW 64.06.030, and the buyer has the rights and remedies provided in RCW 64.06.070.

(8) The fee set forth in subsection (3)(a) of this section may be adjusted for inflation based on the consumer price index applicable to the geographic area in which the lot is located.

(9) An association may require the seller to obtain a signed acknowledgement from the buyer affirming that any disclosed information will not be disclosed to third parties unless such disclosure is related to the decision to purchase the lot.

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

(1) Except as provided under subsection (2) of this section, a seller must furnish to a purchaser before the execution of any contract for sale of residential real property in which the lot is subject to this chapter the following notice:

"BY PURCHASING THE RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF THIS AGREEMENT, YOU WILL BECOME A MEMBER OF A HOMEOWNERS'

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ASSOCIATION THAT GOVERNS THE COMMUNITY IN WHICH THE PROPERTY IS LOCATED. THE ASSOCIATION MAY MAINTAIN AND REPAIR COMMON AREAS, RESTRICT THE USE OF YOUR PROPERTY, COLLECT DUES, AND APPROVE OR DISAPPROVE BUILDING PLANS. UNLESS YOU WAIVE YOUR RIGHT IN WRITING, YOU ARE ENTITLED TO RECEIVE FROM THE SELLER AS PART OF THE DISCLOSURE STATEMENT REQUIRED UNDER CHAPTER 64.06 RCW A CERTIFICATE SIGNED BY AN OFFICER OR AUTHORIZED AGENT OF THE HOMEOWNERS' ASSOCIATION DISCLOSING CERTAIN FINANCIAL AND OTHER INFORMATION ABOUT THE ASSOCIATION."

(2) The notice is not required in real property transfers that occur between commercial buyers and sellers or those transfers listed in RCW 64.06.010.

**NEW SECTION. Sec. 13.** A new section is added to chapter 64.38 RCW to read as follows:

(1) Within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider adoption of the budget no less than ten and no more than sixty days after the mailing of the summary of the proposed regular or special budget. Notwithstanding any contrary provision in the governing documents, the board must allow members to vote on the issue of ratifying the budget either by mail-in ballot or at the meeting, in person or by proxy. Unless the proposed budget is rejected at that meeting by a majority of all the votes in the association, or any larger percentage specified in the governing documents, the proposed budget is ratified and approved whether or not there is a quorum at the meeting. If the proposed budget is rejected or the required notice is not provided, the periodic budget last adopted by the owners shall be continued until the owners adopt a subsequent budget proposed by the board of directors.

(2) To the extent authorized in the declaration, an association's lien rights may include liens to secure payment of fines validly imposed.

(3) A lien for unpaid assessments and the personal liability for the payment of assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the amount of the assessments sought to be recovered becomes due.

(4) This section applies retroactively to any governing documents in effect on the effective date of this section.

(5) This section supersedes any provisions of the governing documents that are inconsistent with this section. All such inconsistent provisions of the governing documents are void and unenforceable.

**Sec. 14.** RCW 64.38.035 and 1995 c 283 s 7 are each amended to read as follows:

(1) A meeting of the association must be held at least once each year.

(2) Special meetings of the association may be called by the president, a majority of the board of directors, or by owners having ~~(ten)~~ five percent of the votes in the association and must be held at a reasonable time and at a reasonable place. Any business may be placed on the agenda for a special meeting as long as the business does not conflict with this chapter or the association's governing documents. If the special meeting is called by the members, the members may determine the business to be placed on the agenda. The board may also place business on the special meeting agenda. This subsection supersedes any inconsistent provisions of the governing documents or other applicable statute.

(3) Not less than ~~(fourteen)~~ ten nor more than sixty days in advance of any meeting, the secretary or other officers specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by first-class United States mail to the mailing address of each owner or to any other mailing address designated in writing by the owner. The notice of any meeting shall state the

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time and place of the meeting and the business to be placed on the agenda by the board of directors for a vote by the owners, including the general nature of any proposed amendment to the articles of incorporation, bylaws, any budget or changes in the articles of incorporation, bylaws, any budget or changes in the previously approved budget that result in a change in assessment obligation, and any proposal to remove a director.

~~((2) Except as provided in this subsection, all meetings of the board of directors shall be open for observation by all owners of record and their authorized agents. The board of directors shall keep minutes of all actions taken by the board, which shall be available to all owners. Upon the affirmative vote in open meeting to assemble in closed session, the board of directors may convene in closed executive session to consider personnel matters; consult with legal counsel or consider communications with legal counsel; and discuss likely or pending litigation, matters involving possible violations of the governing documents of the association, and matters involving the possible liability of an owner to the association. The motion shall state specifically the purpose for the closed session. Reference to the motion and the stated purpose for the closed session shall be included in the minutes. The board of directors shall restrict the consideration of matters during the closed portions of meetings only to those purposes specifically exempted and stated in the motion. No motion, or other action adopted, passed, or agreed to in closed session may become effective unless the board of directors, following the closed session, reconvenes in open meeting and votes in the open meeting on such motion, or other action which is reasonably identified. The requirements of this subsection shall not require the disclosure of information in violation of law or which is otherwise exempt from disclosure.))~~

NEW SECTION. Sec. 15. A new section is added to chapter 64.38 RCW to read as follows:

Except as provided in this section, all meetings of the board of directors shall be open for observation by all owners of record and their authorized agents. The board of directors shall keep minutes of all actions taken by the board, which must be available to all owners. Upon the affirmative vote in open meeting to assemble in closed session, the board of directors may convene in closed executive session to consider personnel matters; consult with legal counsel or consider communications with legal counsel; and discuss likely or pending litigation, matters involving possible violations of the governing documents of the association, and matters involving the possible liability of an owner to the association. The motion must state specifically the purpose for the closed session. Reference to the motion and the stated purpose for the closed session must be included in the minutes. The board of directors shall restrict the consideration of matters during the closed portions of meetings only to those purposes specifically exempted and stated in the motion. A motion, or other action adopted, passed, or agreed to in closed session may not become effective unless the board of directors, following the closed session, reconvenes in open meeting and votes in the open meeting on such motion, or other action that is reasonably identified. This section does not require the disclosure of information in violation of law or that is otherwise exempt from disclosure. This section supersedes any conflicting provisions in Title 23 or 24 RCW or in the association's governing documents.

Sec. 16. RCW 64.38.040 and 1995 c 283 s 8 are each amended to read as follows:

Unless the governing documents specify a ~~((different))~~ smaller percentage, a quorum is present throughout any meeting of the association if the owners to which ~~((thirty-four))~~ twenty-five percent of the votes of the association are allocated are present in person or by proxy at the beginning of the meeting.

NEW SECTION. Sec. 17. A new section is added to chapter 64.38 RCW to read as follows:

For declarations that exist before the effective date of this section:

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(1) If a declaration requires more than seventy-five percent of the votes in the association to approve any amendment to the declaration, the association shall, if so directed by owners holding at least sixty-seven percent of the votes in the association, bring an action in superior court for the county, which any portion of the real property subject to the declaration is located, to reduce the percentage of votes required to amend the declaration. The owners' decision to bring an action may, notwithstanding any provision to the contrary in the declaration, be made by votes cast at a meeting of the association duly called or by written consent, or by both. The action shall be an in rem declaratory judgment action whose title shall be the description of the property subject to the declaration.

(2) If the court finds that the percentage of votes set forth in the declaration is an unreasonable burden on the ability of the owners to amend the declaration and of the association to administer the property under its jurisdiction, the court shall enter an order striking the percentage of votes from the declaration and substituting the percentage of votes that the court determines to be appropriate in the circumstances. The court shall not mandate approval of less than sixty-seven percent of the votes in the association to amend any provision of the declaration.

NEW SECTION. Sec. 18. A new section is added to chapter 64.38 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, declarations recorded after the effective date of this section can be amended with the approval of at least sixty-seven percent of the total votes in the association, or any larger percentage specified in the declaration.

(2) A declarant may unilaterally amend the declaration, but only if the right to amend is clearly stated in the declaration and if the amendment:

(a) Subjects additional property to the declaration pursuant to a plan of expansion set forth in the declaration;

(b) Withdraws property from the declaration, if the withdrawal is allowed under the terms of the declaration and if the property to be withdrawn is not owned by any third party;

(c) Brings any provision of the declaration into compliance with any applicable statute, rule, regulation, or judicial determination;

(d) Enables any title insurance company to issue title insurance coverage for the lots;

(e) Enables any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, to make, purchase, insure, or guarantee mortgage loans for the lots; or

(f) Satisfies the requirements of any local, state, or federal governmental agency.

The amendment shall not adversely affect the title to any lot unless the owner of the affected lot consents to it in writing.

(3) The declaration may require all or a specified number or percentage of the eligible mortgagees who hold first lien security interests encumbering lots to approve specified actions of the owners or association as a condition to the effectiveness of those actions, but a requirement for approval may not operate to:

(a) Deny or delegate control of the general administrative affairs of the association by the owners or board of directors;

(b) Prevent the association or board of directors from commencing, intervening in, or settling any litigation or proceeding; or

(c) Prevent any insurance trustee or the association from receiving and distributing any insurance proceeds.

For purposes of this subsection, "eligible mortgagee" means the holder of a mortgage on a lot that has filed with the secretary of the association a written request for copies of notices of any action by the association that requires the consent of mortgagees that includes the lot number and address of the property subject to the mortgage. If an eligible mortgagee fails to respond to a request for approval within thirty days following the association's issuance of a notice requesting such approval, the eligible mortgagee's approval is deemed granted.

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(4) The declaration may permit the association's members to approve an amendment through a combination of votes conducted during meetings or through a written consent process.

(5) The declaration may require that to be effective all declaration amendments must be signed by one or more officers of the association, or if applicable, by the declarant. To be effective, all declaration amendments must be acknowledged and recorded in each county in which any portion of the property is located.

**NEW SECTION. Sec. 19.** A new section is added to chapter 64.38 RCW to read as follows:

An action to challenge the validity of a declaration amendment adopted by the association under this chapter and after the effective date of this section may not be brought more than one year after the amendment is recorded.

**NEW SECTION. Sec. 20.** A new section is added to chapter 64.38 RCW to read as follows:

(1) This section applies to associations in which the declaration or the bylaws authorize only the board of directors to adopt, amend, or rescind bylaws and to do so without a vote of the members and, with respect to those associations, to all bylaws adopted or amended by the board of directors after the effective date of this section.

(2) A bylaw adopted, amended, or rescinded by the board of directors shall not be valid or enforceable until it is ratified by the association's members as set forth in this subsection:

(a) The board of directors shall submit all bylaws adopted, amended, or rescinded by the board to a vote of the members. The vote must be held at the next regularly scheduled annual meeting of the association, or at a special meeting held before the next annual meeting.

(b) The notice of the annual or special meeting must include the text of any existing bylaw that the board has approved for amendment or rescission, and the text of any new or amended bylaw approved by the board.

(c) Unless the governing documents specify a longer advance notice period for a meeting, notice of the meeting, at which the proposed bylaw change will be voted upon, must be provided at least ten days in advance of the meeting and shall not be given more than sixty days in advance of the meeting.

(d) The proposed bylaw change is deemed approved and ratified by the members unless a majority of all the votes in the association vote at the meeting, in person or by proxy, to reject the bylaw change approved by the board.

(3) All bylaw changes ratified by the members in accordance with this section take effect the day after the annual or special meeting at which they were ratified.

**NEW SECTION. Sec. 21.** A new section is added to chapter 64.38 RCW to read as follows:

For rules, or amendments to rules, adopted after the effective date of this section:

(1) A rule adopted by the board is valid and enforceable if all the following requirements are satisfied:

(a) The rule is in writing;

(b) The rule is required by law or, within the authority of the board, conferred by law or by the declaration;

(c) The rule is consistent with the governing documents; and

(d) The rule is adopted or amended in substantial compliance with the requirements of this chapter.

(2) Except for emergency rules, the board of directors must provide the association's members with notice and an opportunity to comment on any proposed new or amended rule before the board is authorized to adopt or enforce that rule. For purposes of this section, an "emergency rule" is a rule that is necessary for the immediate preservation of health and safety or a rule that sets forth specific rights or obligations affecting the association or its members under state statutes or administrative rules. Emergency rules become effective immediately, subject to the members' right to request a ratification vote under subsection (3) of this section.

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(3) Except for emergency rules, rules adopted by the board of directors following notice and an opportunity for comment become effective thirty days after notice of the rules is provided to the members in the manner authorized by the governing documents, unless a written petition signed by twenty percent of the total votes in the association is submitted to the board within that thirty-day period requesting a ratification vote on the proposed rule. If a ratification vote is requested, the association shall use the following process for the ratification vote:

(a) The board of directors must submit the rules on which a ratification vote has been requested to a vote of the members. The vote must be conducted at the next regularly scheduled annual meeting of the association, or at a special meeting held before the next annual meeting.

(b) The notice of the meeting, at which the ratification vote will be conducted, must include the text of the proposed rules.

(c) Unless the governing documents specify a longer advance notice period for an association meeting, notice of the meeting, at which the ratification vote will be conducted, must be provided at least ten days in advance of the meeting and shall not be provided more than sixty days in advance of the meeting.

(d) The proposed rule change is deemed approved and ratified by the members, unless a majority of all the votes in the association vote at the meeting, in person or by proxy, to reject the rule change approved by the board.

(e) All rule changes ratified by the members in accordance with this section take effect on the original effective date or later effective date established by the board.

(4) The board of directors is not required to use the following optional rule-making process. However, use of this process establishes compliance with the requirements of subsection (1) of this section. For purposes of this section, "rule change" means the adoption or amendment of a rule by the board.

(a) The board shall give notice of a proposed rule change to the owners. The notice must include the following information: (i) The text of the proposed rule change; (ii) a description of the purpose and effect of the proposed rule change; and (iii) the deadline for submission of a comment on the proposed rule change.

(b) For a period of at least thirty days following actual or constructive delivery of a notice of a proposed rule change, the board shall accept written comments from owners on the proposed rule change.

(c) The board shall consider any comments it receives and make a decision on a proposed rule change at a board meeting. Except for emergency rules, a decision on a rule may not be made until after the comment submission deadline.

(d) The board shall give notice of a rule change to the owners. The notice must set out the text of the rule change and state the date the rule change takes effect. Except for emergency rules, the date the rule change takes effect must not be less than thirty days after notice of the rule change is provided in the manner authorized in the governing documents.

**NEW SECTION. Sec. 22.** A new section is added to chapter 64.38 RCW to read as follows:

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

(a) "Requestor" means the party requesting mediation.

(b) "Request" means a request for mediation.

(c) "Recipient" means the party that receives the request for mediation.

(2) For disputes that arise after the effective date of this section and do not apply to any judicial or other legal proceedings pending before the effective date of this section:

(a) With the exception of the claims listed in (b) of this subsection, disputes between owners or between owners and their association that involve the governing documents must be submitted to mediation before any party may pursue the claim through court proceedings.

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(b) The following categories of claims are exempt from the prelitigation mediation requirement under (a) of this subsection:

(i) Claims in which the statute of limitations will soon expire, except that any party to the lawsuit may file a motion with the court requesting that the judge order the parties to mediate before allowing them to proceed with the lawsuit and temporarily stay the litigation proceedings pending the outcome of mediation;

(ii) Claims for injunctive relief, except that any party to the lawsuit may file a motion with the court requesting that the judge order the parties to mediate before allowing them to proceed with the lawsuit and temporarily stay the litigation proceedings pending the outcome of mediation;

(iii) Claims for declaratory judgment;

(iv) Claims related to assessments, or the collection of assessments, or to foreclosures;

(v) Claims for defects in construction of homes and other improvements, whether individually owned or part of the common areas;

(vi) Claims that involve parties who are not subject to the association's governing documents;

(vii) Claims between members of the association that are unrelated to the association's governing documents;

(viii) Claims or issues that have been the subject of a previous mediation request, response, or mediation conference under this section within twelve months of the date of the most recent request, response, or mediation conference, whichever is sooner.

(c) Unless another reasonable alternative dispute resolution process is set forth in the declaration or adopted by a majority vote of the nondeclarant members of the association, the following procedures in this subsection govern the mediation of disputes under this chapter:

(i) The party requesting mediation must submit a request for mediation to the other parties;

(ii) The request may be made in any medium, provided that the requestor can prove the request was received by the recipient;

(iii) Mediation must be conducted by one mediator, unless the parties agree otherwise;

(iv) Unless all parties to the mediation agree otherwise, the mediation conference must be held within ninety days of the date the request is received by all recipients;

(v) The request for mediation must: State the issues that the requestor wishes to mediate; certify that the requestor is willing to meet in good faith; and propose a mediator and provide full contact information (name, address, telephone and fax numbers, and e-mail address) for the proposed mediator;

(vi) The recipients must respond to the requestor no later than thirty days after the request is received by all recipients. The response may be made in any medium as long as the recipient can prove that the response was received by the requestor;

(vii) If the recipient agrees to mediate, the response must include a statement of any additional issues that the recipient wishes to mediate, a statement of whether the mediator proposed by the requestor is acceptable to the recipient and, if not, a proposed alternative mediator and that mediator's contact information. If the recipient declines to mediate, the response must indicate this decision and include a statement of the reasons that the recipient declines to mediate;

(viii) The requestor must reply to the recipient's response within fifteen days of receipt. If the response identifies additional issues that the recipient wishes to address at mediation, the reply must state whether the requestor agrees to mediate those issues. If the requestor does not agree to mediate those issues, the reply must indicate this decision and include a statement of the reasons that the requestor declines to mediate the issues identified by the recipient. A requestor's refusal to mediate the issues identified in the reply is subject to (e) of this subsection;

(ix) If the recipient has proposed an alternative mediator, the reply must state whether the alternative mediator is acceptable to the requestor. If the alternative mediator is not acceptable, the requestor must contact the two proposed mediators within fifteen days of delivering the reply and request that the mediators choose a third person who is available within the time frame required in this section to act as mediator;

(x) The mediator may be an attorney or judge. The mediator's primary function is to assist the parties in communicating with one another and to find ways to resolve the disputed issues by agreement.

(d) Either the recipient or the requestor can decline mediation. If mediation is declined, or a party fails to participate in a scheduled mediation conference, the other party may proceed with filing a legal action. In such a case, the court may:

(i) Enter an order compelling the parties to participate in a mediation conference if the court determines that mediation would be productive or useful; and

(ii) Impose appropriate remedies for a party's unjustified failure to mediate claims subject to mandatory mediation requirements imposed under this section including, without limitation, requiring that party to pay all mediation fees and costs charged by the mediator, reimburse the plaintiff for the costs of filing suit, reimburse the plaintiff for process of service costs, and reimburse the plaintiff for some or all of the plaintiffs' attorneys' fees and costs.

This subsection (2)(d) supersedes any inconsistent provisions in an association's governing documents. The standard of review of a trial court's decision under this section is abuse of discretion.

(e) Unless the parties agree otherwise, the fees and costs of mediation must be shared equally by all parties to the mediation. For purposes of this subsection (2)(e), "fees and costs of mediation" means only those fees and costs charged by the mediator or mediation service and does not include investigation costs or fees paid to an attorney to represent a party to the mediation. If the mediator requires prepayment of all or a portion of the anticipated fees and costs, all parties to the mediation must comply with this requirement. An association may not condition mediation on a member's payment of any charges, costs, or fees.

(3) This section does not limit any party's right to seek relief in a court of competent jurisdiction after the mediation requirements in this section have been met.

**NEW SECTION. Sec. 23.** A new section is added to chapter 64.38 RCW to read as follows:

Unless the governing documents permit or require other methods for providing notice, all notices required under this chapter or the governing documents must be delivered or sent by first-class mail postage prepaid to the mailing address of each owner, but not for a shorter time period for providing notice than is required under RCW 64.38.035.

**NEW SECTION. Sec. 24.** A new section is added to chapter 64.38 RCW to read as follows:

(1) Except as provided under subsection (2) of this section, in a transaction for the sale of a lot that is subject to this chapter, the seller shall furnish to a buyer a homeowners' association information pamphlet that is identical, in form and substance, to the following:

**"FREQUENTLY ASKED QUESTIONS**

**ABOUT HOMEOWNERS' ASSOCIATIONS**

Buying a home is a big investment. Homeownership frequently includes automatic membership in a homeowners' association (HOA). There are rights and obligations that come with being a member of an HOA. The information below attempts to give you a basic understanding of what membership in an HOA may involve. To better understand what membership in a particular HOA might involve, you should review that HOA's governing documents and consider seeking the assistance of legal counsel to answer any questions you may have.

**(1) WHAT IS AN HOA?**



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Washington law defines an HOA as a legal entity in which each member is an owner of residential property that is subject to the HOA's jurisdiction as a result of certain recorded governing documents. The law governing homeowners' associations, chapter 64.38 RCW, provides more information in this regard.

**(2) WHAT ARE THE GOVERNING DOCUMENTS OF AN HOA?**

The principal governing document of an HOA is often known as the Declaration of Covenants, Conditions, and Restrictions and Easements (CCRs). Other important HOA documents may include Articles of Incorporation, Bylaws, Rules, and Policies.

**(3) WHAT SERVICES AND AMENITIES ARE PROVIDED BY HOAs?**

The services and amenities provided by HOAs vary greatly from community to community. These may include common areas such as a swimming pool, tennis court, playground, trails, community center, or even a golf course. Some HOAs provide landscaping services for homeowners, and some even paint and maintain the exterior of homes.

**(4) WHAT OBLIGATIONS DOES AN HOA HAVE?**

Each HOA is different, but the most common HOA roles include maintaining common areas and amenities, administering and enforcing use and architectural restrictions, adopting budgets, and collecting assessments.

**(5) AM I REQUIRED TO BE A MEMBER OF THE HOA?**

Generally, the governing documents for an HOA make membership mandatory for all owners within the community. The HOA's governing documents are essentially a legally binding contract between the owner/members and the association. If you have questions about your legal rights and obligations as a member of the HOA, you should consult an attorney.

**(6) HOW DOES MEMBERSHIP IN AN HOA AFFECT THE OWNERSHIP OF MY HOME?**

By virtue of your membership in an HOA, you will have various rights and obligations as described in the governing documents. These may include restrictions on the use of your property, architectural controls on future improvements of your property, and the obligation to pay assessments, also known as dues, to the HOA.

**(7) WHO IS IN CHARGE OF AN HOA?**

HOAs are typically governed by a board of directors or board of trustees elected by the homeowners. The board's responsibilities and power depend upon the HOA's governing documents.

**(8) HOW DOES THE HOA ENFORCE THE GOVERNING DOCUMENTS?**

The governing documents of an HOA typically give it wide-ranging powers to enforce its covenants, rules, and policies. This may include the power to file a lawsuit for damages or injunctive relief or fine an owner who does not comply with the restrictions.

**(9) WHAT HAPPENS IF I DO NOT PAY MY HOA ASSESSMENTS?**

The governing documents likely give your HOA the power to place a lien on your home or take other legal action if you fail to pay properly levied assessments. If you do not pay your assessments on time, this might result in the foreclosure of your home by the HOA.

**(10) WHAT IS THE DIFFERENCE BETWEEN AN HOA AND A CONDOMINIUM ASSOCIATION?**

A condominium association is a specialized type of homeowners' association. A condominium association is created under different statutes than those that apply to HOAs. Unless your governing documents state that your community is a condominium created pursuant to the Washington Condominium Act, chapter 64.34 RCW, or the Horizontal Property Regimes Act, chapter 64.32 RCW, it is not a condominium.

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**(11) WHAT HAPPENS IF ONE OF THE COMMON AREAS OF MY HOA MUST BE REPAIRED OR REPLACED?**

Well-managed HOAs will normally include an amount for reserves in their annual budgets. In this way, a portion of the assessments you pay is set aside and builds up over time to pay for expensive repairs or replacements. You should review the HOA's financial statements to determine if this is true for your HOA.

**(12) WHAT IS THE AMOUNT OF THE ASSESSMENTS THAT CAN BE CHARGED BY MY HOA?**

If you are a new buyer, you are entitled to a resale certificate that will provide this information. Otherwise, this information should be provided to you as part of the HOA's annual budget process. If you have questions, you should consult the HOA's manager or a member of its board of directors.

**(13) CAN ASSESSMENTS BE INCREASED?**

Typically, the governing documents allow for assessments to be adjusted based on the HOA's annual budget. The law governing homeowners' associations requires that an HOA's annual budget be ratified by its members. This is a good opportunity to ask questions as to how budget changes will affect your assessments.

**(14) CAN MY HOA RESTRICT THE TYPES OF IMPROVEMENTS I CAN MAKE TO MY HOME?**

Depending on your governing documents, your HOA may have certain architectural or design guidelines and restrictions. If it does, there may be restrictions on the exterior appearance of your home, and you may be required to submit plans and specifications for approval before you make any changes to the exterior or build any additions or other structures.

**(15) WHAT TYPES OF USE RULES MIGHT AFFECT MY HOME?**

The HOA's governing documents may contain rules relating to trees, landscaping, pets, satellite dishes, clotheslines, fences, parking, home businesses, rental of homes, and other issues. You should carefully read the governing documents to understand the nature of these restrictions.

**(16) AS A MEMBER OF AN HOA, CAN I RENT MY HOME?**

The answer to this question depends on the governing documents for the particular community. Some governing documents prohibit all rentals, some limit the number of homes that can be rented at any time, while others have no restrictions on leasing.

**(17) WHEN DOES MY HOA MEET?**

In Washington state, HOAs must hold a meeting of the membership at least once each year. Notice of the date and time of the meeting must be provided to you by the officers of the association. Your HOA's board will likely meet more often. If you would like information concerning the board's meeting schedule, you should consult the HOA's manager or a member of the board.

**(18) CAN I ATTEND THE REGULAR MEETINGS OF MY HOA'S BOARD OF DIRECTORS?**

Board meetings are generally open to members of the HOA to observe, but not to participate in. The law governing homeowners' associations permits a board to consider certain sensitive topics in private (executive session), and to exclude HOA members from that part of the board's meeting. Review the HOA's governing documents, particularly its bylaws, to determine your rights.

**(19) AS A MEMBER OF AN ASSOCIATION, CAN I OBTAIN COPIES OF THE HOA'S RECORDS?**

The law governing homeowners' associations provides that the records of the HOA must be made available for review by owners during normal business hours at the office of the HOA or its managing agent.

**(20) HOW CAN I DETERMINE WHETHER THE HOA OF WHICH I AM CONSIDERING BECOMING A MEMBER FACES ANY SERIOUS FINANCIAL PROBLEMS?**



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As a purchaser of a home within an HOA, you are entitled to receive a resale certificate that will provide you with information regarding the financial condition of the HOA and whether it is involved in any litigation. However, you should also ask the seller questions to get a clear picture of the HOA's financial condition.

**(21) DO THE BENEFITS OF BELONGING TO AN HOA OUTWEIGH THE BURDENS?**

This is a question you should consider when the home you want to buy is part of an HOA. Some of the typical benefits and burdens are described above. Studying the governing documents for the community in which you are considering purchasing a home is an important step. Consider exploring this question with your seller, real estate professional, attorney, and other advisors. You may also wish to speak with neighboring homeowners about the community and the HOA."

(2) The homeowners' association information pamphlet is not required in real property transfers that occur between commercial buyers and sellers or those transfers listed in RCW 64.06.010.

**NEW SECTION. Sec. 25.** A new section is added to chapter 64.38 RCW to read as follows:

(1) Subject to subsection (2) of this section, the declaration may provide for a period of declarant control of the association, during which period a declarant or persons designated by the declarant may (a) appoint and remove the officers and members of the board of directors or (b) veto or approve a proposed action of the board or association. A declarant's failure to veto or approve the proposed action in writing within thirty days of written notice of the proposed action is deemed an approval of the proposed action by the declarant.

(2) Regardless of any period provided in the declaration, a period of declarant control terminates no later than the earliest of: (a) Sixty days after conveyance of seventy-five percent of the lots that may be created to lot owners other than a declarant; (b) two years after the last conveyance or transfer of record of a lot except as security for a debt; (c) two years after any development right to add new lots was last exercised; or (d) the date on which the declarant records an amendment to the declaration, pursuant to which the declarant voluntarily surrenders the right to further appoint and remove officers and members of the board of directors. A declarant may voluntarily surrender the right to appoint and remove officers and members of the board of directors before termination of the period of declarant control, but in that event the declarant may require, for the duration of the period of declarant control, that specified actions of the association or board of directors, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(3) No later than sixty days after conveyance of twenty-five percent of the lots that may be created to lot owners other than a declarant, at least one member and at least twenty-five percent of the members of the board of directors must be elected by lot owners other than the declarant. No later than sixty days after conveyance of fifty percent of the lots that may be created to lot owners other than a declarant, at least thirty-three and one-third percent of the members of the board of directors must be elected by lot owners other than the declarant.

**NEW SECTION. Sec. 26.** A new section is added to chapter 64.38 RCW to read as follows:

Owners may vote in person or by proxy or by any other method permitted by their governing documents or the law applicable to the association's legal entity.

**NEW SECTION. Sec. 27.** A new section is added to chapter 64.38 RCW to read as follows:

(1) For the purposes of this section, "land use approval organization" means any legal entity, except for the original declarant or grantor, that does not meet the definition of an association under this chapter but asserts the authority to:

(a) Approve construction of structures on residential real property;

(b) Regulate the use of such residential real property; or  
(c) Grant or deny variances from any requirements pertaining to such residential real property.

(2) A land use approval organization may not exercise any authority over residential real property unless:

(a) The membership of the organization is open to the owners of all real property subject to its authority;

(b) The membership of the organization elects the organization's board of directors; and

(c) The board of directors conducts periodic open membership meetings.

(3) The board of directors of a land use approval organization shall exercise the degree of care and loyalty required of an officer or director of a corporation organized under chapter 24.03 RCW.

**NEW SECTION. Sec. 28.** The code reviser shall alphabetize and renumber the definitions in RCW 64.38.010."

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

**MOTION**

Senator Tom moved that the following amendment by Senators Tom, Fraser and Benton to the striking amendment be adopted.

Beginning on page 8, line 27 of the amendment, strike all of section 11

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

On page 30, after line 27 of the amendment, insert the following:

**"Sec. 28.** RCW 64.06.020 and 2007 c 107 s 4 are each amended to read as follows:

(1) In a transaction for the sale of improved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

**INSTRUCTIONS TO THE SELLER**

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any \* items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

**NOTICE TO THE BUYER**

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT ..... ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN

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STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller . . . . is/ . . . . is not occupying the property.

**I. SELLER'S DISCLOSURES:**

\*If you answer "Yes" to a question with an asterisk (\*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

**1. TITLE**

[ ] [ ] [ ] Don't  
Yes No know  
A. Do you have legal authority to sell the property? If no, please explain.

[ ] [ ] [ ] Don't  
Yes No know  
\*B. Is title to the property subject to any of the following?

- (1) First right of refusal
- (2) Option
- (3) Lease or rental agreement
- (4) Life estate?

[ ] [ ] [ ] Don't  
Yes No know  
\*C. Are there any encroachments, boundary agreements, or boundary disputes?

[ ] [ ] [ ] Don't  
Yes No know  
\*D. Is there a private road or easement agreement for access to the property?

[ ] [ ] [ ] Don't  
Yes No know  
\*E. Are there any rights-of-way, easements, or access limitations that may affect the Buyer's use of the property?

[ ] [ ] [ ] Don't  
Yes No know  
\*F. Are there any written agreements for joint maintenance of an easement or right-of-way?

[ ] [ ] [ ] Don't  
Yes No know  
\*G. Is there any study, survey project, or notice that would adversely affect the property?

[ ] [ ] [ ] Don't  
Yes No know  
\*H. Are there any pending or existing assessments against the property?

[ ] [ ] [ ] Don't  
Yes No know  
\*I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?

[ ] [ ] [ ] Don't  
Yes No know  
\*J. Is there a boundary survey for the property?

[ ] [ ] [ ] Don't  
Yes No know  
\*K. Are there any covenants, conditions, or restrictions which affect the property?

**2. WATER**

**A. Household Water**

(1) The source of water for the property is:  
[ ] Private or publicly owned water system  
[ ] Private well serving only the subject property . . . . .  
\*[ ] Other water system

[ ] [ ] [ ] Don't know  
Yes No  
\*If shared, are there any written agreements?

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[ ] [ ] [ ] Don't  
Yes No know

\*(2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?

[ ] [ ] [ ] Don't  
Yes No know

\*(a) If yes, has all or any portion of the water right not been used for five or more successive years?

[ ] [ ] [ ] Don't  
Yes No know

\*(3) Are there any known problems or repairs needed?

[ ] [ ] [ ] Don't  
Yes No know

\*(b) If so, is the certificate available? (If yes, please attach a copy.)

[ ] [ ] [ ] Don't  
Yes No know

(4) During your ownership, has the source provided an adequate year-round supply of potable water? If no, please explain.

[ ] [ ] [ ] Don't  
Yes No know

(c) If so, has the water right permit, certificate, or claim been assigned, transferred, or changed? If so, explain:

[ ] [ ] [ ] Don't  
Yes No know

\*(5) Are there any water treatment systems for the property? If yes, are they [ ]Leased [ ]Owned

[ ] [ ] [ ] Don't  
Yes No know

.....  
(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies water to the property:  
.....

[ ] [ ] [ ] Don't  
Yes No know

\*(6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim?

[ ] [ ] [ ] Don't  
Yes No know

(a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?

[ ] [ ] [ ] Don't  
Yes No know

C. Outdoor Sprinkler System

(1) Is there an outdoor sprinkler system for the property?

(b) If yes, has all or any portion of the water right not been used for five or more successive years? (If yes, please explain.)  
.....

[ ] [ ] [ ] Don't  
Yes No know

(2) If yes, are there any defects in the system? .....

[ ] [ ] [ ] Don't  
Yes No know

\*(3) If yes, is the sprinkler system connected to irrigation water?

B. Irrigation Water

[ ] [ ] [ ] Don't  
Yes No know

(1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim?

3. SEWER/ON-SITE SEWAGE SYSTEM

A. The property is served by:  
[ ] Public sewer system,  
[ ] On-site sewage system (including pipes, tanks, drainfields, and all other component parts)  
[ ] Other disposal system, please describe:  
.....

Yes  No  Don't know B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain.  
.....

Yes  No  Don't know C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?

D. If the property is connected to an on-site sewage system:

Yes  No  Don't know \* (1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction?

(2) When was it last pumped:  
.....

Yes  No  Don't know \* (3) Are there any defects in the operation of the on-site sewage system?

Don't know (4) When was it last inspected?  
.....

By whom: .....

Don't know (5) For how many bedrooms was the on-site sewage system approved?  
..... bedrooms

Yes  No  Don't know E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain: .....

Yes  No  Don't know \*F. Have there been any changes or repairs to the on-site sewage system?

Yes  No  Don't know G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.  
.....

Yes  No  Don't know H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year? If yes, please explain.  
.....

NOTICE: IF THIS RESIDENTIAL REAL PROPERTY DISCLOSURE STATEMENT IS BEING COMPLETED FOR NEW CONSTRUCTION WHICH HAS NEVER BEEN OCCUPIED, THE SELLER IS NOT REQUIRED TO COMPLETE THE QUESTIONS LISTED IN ITEM 4. STRUCTURAL OR ITEM 5. SYSTEMS AND FIXTURES

**4. STRUCTURAL**

Yes  No  Don't know \*A. Has the roof leaked?

Yes  No  Don't know \*B. Has the basement flooded or leaked?

Yes  No  Don't know \*C. Have there been any conversions, additions, or remodeling?

Yes  No  Don't know \* (1) If yes, were all building permits obtained?

Yes  No  Don't know \* (2) If yes, were all final inspections obtained?

Yes  No  Don't know D. Do you know the age of the house? If yes, year of original construction:  
.....

Yes  No  Don't know \*E. Has there been any settling, slippage, or sliding of the property or its improvements?

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[ ] [ ] [ ] Don't \*F. Are there any defects with the following: (If yes, please check applicable items and explain.)

- Foundations Decks Exterior Walls Chimneys Interior Walls Fire Alarm Doors Windows Patio Ceilings Slab Floors Driveways Pools Hot Tub Sauna Sidewalks Outbuildings Fireplaces Garage Floors Walkways Siding Other Wood Stoves

[ ] [ ] [ ] Don't \*G. Was a structural pest or "whole house" inspection done? If yes, when and by whom was the inspection completed? .....

[ ] [ ] [ ] Don't H. During your ownership, has the property had any wood destroying organism or pest infestation?

[ ] [ ] [ ] Don't I. Is the attic insulated?

[ ] [ ] [ ] Don't J. Is the basement insulated?

5. SYSTEMS AND FIXTURES

\*A. If any of the following systems or fixtures are included with the transfer, are there any defects? If yes, please explain.

[ ] [ ] [ ] Don't Electrical system, including wiring, switches, outlets, and service

[ ] [ ] [ ] Don't Plumbing system, including pipes, faucets, fixtures, and toilets

[ ] [ ] [ ] Don't Hot water tank

[ ] [ ] [ ] Don't Garbage disposal

[ ] [ ] [ ] Don't Appliances

[ ] [ ] [ ] Don't Sump pump

[ ] [ ] [ ] Don't Heating and cooling systems

[ ] [ ] [ ] Don't Security system [ ] Owned [ ] Leased

Other .....

\*B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.)

[ ] [ ] [ ] Don't Security system .....

[ ] [ ] [ ] Don't Tanks (type): .....

[ ] [ ] [ ] Don't Satellite dish .....

Other: .....

6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

[ ] [ ] [ ] Don't A. Is there a Homeowners' Association? If yes, provide the name of the association and contact information for the association:

.....

[ ] [ ] [ ] Don't B. Are there regular periodic assessments:

\$ . . . per [ ] Month [ ] Year [ ] Other .....

[ ] [ ] [ ] Don't \*C. Are there any pending special assessments?

Yes  No  Don't know \*D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

**7. ENVIRONMENTAL**

Yes  No  Don't know \*A. Have there been any drainage problems on the property?

Yes  No  Don't know \*B. Does the property contain fill material?

Yes  No  Don't know \*C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

Yes  No  Don't know D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?

Yes  No  Don't know \*E. Are there any substances, materials, or products on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?

Yes  No  Don't know \*F. Has the property been used for commercial or industrial purposes?

Yes  No  Don't know \*G. Is there any soil or groundwater contamination?

Yes  No  Don't know \*H. Are there transmission poles, transformers, or other utility equipment installed, maintained, or buried on the property?

Yes  No  Don't know \*I. Has the property been used as a legal or illegal dumping site?

Yes  No  Don't know \*J. Has the property been used as an illegal drug manufacturing site?

Yes  No  Don't know \*K. Are there any radio towers in the area that may cause interference with telephone reception?

**8. MANUFACTURED AND MOBILE HOMES**

If the property includes a manufactured or mobile home,

Yes  No  Don't know \*A. Did you make any alterations to the home? If yes, please describe the alterations: . . . . .

Yes  No  Don't know \*B. Did any previous owner make any alterations to the home? If yes, please describe the alterations: . . . . .

Yes  No  Don't know \*C. If alterations were made, were permits or variances for these alterations obtained?

**9. FULL DISCLOSURE BY SELLERS**

A. Other conditions or defects:

Yes  No  Don't know \*Are there any other existing material defects affecting the property that a prospective buyer should know about?

B. Verification:

The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DATE .... SELLER ..... SELLER .....

**NOTICE TO THE BUYER**

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE ..... BUYER ..... BUYER .....

(2) If the disclosure statement is being completed for new construction which has never been occupied, the disclosure statement is not required to contain and the seller is not required to complete the questions listed in item 4. Structural or item 5. Systems and Fixtures.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction."

Renumber the remaining section consecutively.

Senator Tom spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Tom , Fraser and Benton on page 8, line 27 to the striking amendment to Senate Bill No. 6745.

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

**MOTION**

Senator Benton moved that the following amendment by Senators Benton and Tom to the striking amendment be adopted.

On page 12, beginning on line 28, strike all material through line 30, and insert the following:

"(2) An association's lien rights may not include liens to secure payment of fines validly imposed. However, an association's lien rights may include liens to secure payment of unpaid assessments. This subsection supersedes any inconsistent provisions in the governing documents."

Senator Benton spoke in favor of adoption of the

**II. BUYER'S ACKNOWLEDGMENT**

- A Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.

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amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton and Tom on page 12, line 28 to the striking amendment to Senate Bill No. 6745.

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

#### MOTION

Senator Roach moved that the following amendment to the striking amendment by Senator Roach be adopted.

On page 16, following line 2, insert the following:

"NEW SECTION. Sec. 18. A new section is added to chapter 64.38 RCW to read as follows:

(1) A homeowners' association may be dissolved by an affirmative vote of sixty percent of the owners in the association in accordance with this section.

(2) If a request for dissolution is made in writing to the board by owners having at least twenty percent of votes in the association, the secretary of other officers specified in the bylaws shall cause notice of such proposal to be hand-delivered or sent prepaid by first-class United States mail to the mailing address of each owner in the association. The notice shall state the time and place of a meeting to vote on the proposal. The meeting shall not be held less than one hundred and eighty days prior to such notice being mailed. Owners may vote in person or by proxy.

(3) This section supersedes any provisions of a declaration or governing documents which either prohibit dissolution or establish a threshold to dissolve in excess of that set forth in this section. A declaration or governing document which allow for dissolution of an association with a vote less than required under this section are permitted."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Roach spoke in favor of adoption of the amendment to the striking amendment.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Roach, the amendment by Senator Roach on page 16, line 2 to the striking amendment to Senate Bill No. 6745 was withdrawn.

#### MOTION

Senator Benton moved that the following amendment by Senators Benton and Tom to the striking amendment be adopted.

On page 18, line 14, after "members", strike "unless" and insert "if"

On page 18, line 16, after "to", strike "reject" and insert "approve"

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton and Tom on page 18, line 14 to the striking amendment to Senate Bill No. 6745.

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

The President declared the question before the Senate to be

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the adoption of the striking amendment by Senators Fraser, Haugen and Weinstein as amended to Senate Bill No. 6745.

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

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "associations;" strike the remainder of the title and insert "amending RCW 64.38.005, 64.38.010, 64.38.015, 64.38.020, 64.38.025, 64.38.030, 64.38.035, and 64.38.040; adding new sections to chapter 64.38 RCW; and creating a new section."

On page 31, line 3 of the title amendment, after "64.38.035," strike "and 64.38.040" and insert "64.38.040, and 64.06.020"

#### MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Senate Bill No. 6745 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Honeyford 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. 6745.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6745 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yeas: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

ENGROSSED SENATE BILL NO. 6745, 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. 6227, by Senator Jacobsen

Providing support and resources to outer coast marine resources committees.

#### MOTIONS

On motion of Senator Jacobsen, Second Substitute Senate Bill No. 6227 was substituted for Senate Bill No. 6227 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Second Substitute Senate Bill No. 6227 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.



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The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6227.

SENATE BILL NO. 6277, by Senators Haugen and Spanel

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6227 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SECOND SUBSTITUTE SENATE BILL NO. 6227, 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 Senator Kline

Concerning crimes against property.

The measure was read the second time.

MOTION

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

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

Senators Carrell, Brandland, Honeyford, Benton and Roach spoke against passage of the bill.

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

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5343 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 22; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 26

Voting nay: Senators Benton, Berkey, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Pridemore, Rasmussen, Roach, Schoesler, Sheldon, Stevens and Zarelli - 22

Excused: Senator Swecker - 1

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

Requiring the accommodation of certain private transit providers at park and ride lots. Revised for 1st Substitute: Providing for the accommodation of certain private transit providers at park and ride lots.

MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 6277 was substituted for Senate Bill No. 6277 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 6277 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

PARLIAMENTARY INQUIRY

Senator Brandland: "I'm wondering what book we're working out of? I've got two here and I, maybe I missed it."

REPLY BY THE PRESIDENT

President Owen: "It's labeled, 'Supplemental Calendar'."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6277.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6277 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6277, 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. 6337, by Senator Jacobsen

Regarding the management of the Puget Sound commercial salmon fishery. Revised for 1st Substitute: Regarding the state's management of the Puget Sound commercial salmon fishery.

MOTIONS

On motion of Senator Spanel, Substitute Senate Bill No. 6337 was substituted for Senate Bill No. 6337 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Spanel, the rules were suspended, Substitute Senate Bill No. 6337 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Spanel 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. 6337.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6337 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6337, 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. 6770, by Senators Kohl-Welles, Holmquist, McAuliffe, Hewitt and Delvin

Regarding alcoholic beverage regulation.

#### MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 6770 was substituted for Senate Bill No. 6770 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 6770 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Delvin and Holmquist 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. 6770.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6770 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators 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, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 47

Absent: Senator McAuliffe - 1

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6770, 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. 6514, by Senators Tom, McCaslin and Kline

Regarding identifying real property.

#### MOTIONS

On motion of Senator Tom, Substitute Senate Bill No. 6514 was substituted for Senate Bill No. 6514 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. 6514 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. 6514.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6514 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6514, 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. 6711, by Senators Kauffman, Kilmer, Kohl-Welles, Keiser and Kline

Creating the smart homeownership choices program.

#### MOTIONS

On motion of Senator Weinstein, Substitute Senate Bill No. 6711 was substituted for Senate Bill No. 6711 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Weinstein, the rules were suspended, Substitute Senate Bill No. 6711 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Weinstein and Honeyford 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. 6711.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6711 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6711, 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. 6347, by Senator Morton

Exempting small counties from certain day labor project requirements.

MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 6347 was substituted for Senate Bill No. 6347 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 6347 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Morton, Murray and Sheldon 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. 6347.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6347 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators 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, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6347, 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. 6305, by Senators Kohl-Welles, Keiser, Fairley, Regala, Kline, McDermott, Murray and Tom

Granting discretion to the department of health with respect to federal funding for the prevention of teen pregnancy.

The measure was read the second time.

MOTION

Senator Stevens moved that the following amendment by Senator Stevens and others be adopted.

On page 1, at the beginning of line 16, strike all material through "~~abortions~~)" and insert "~~(of illegitimate births--)~~ and abortions"

Senators Stevens 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 Senator Stevens and others on page 1, line 16 to Senate Bill No. 6305.

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

MOTION

Senator Holmquist moved that the following amendment by Senator Holmquist and others be adopted.

On page 2, line 2, after "programs." strike all material through "received." and insert "The department is directed to identify community-based programs that are qualified to provide abstinence education and motivation programs that meet all the requirements for federal funding. If that federal funding is granted."

On page 2, line 3, after "with" insert "community-based"

Senators Holmquist 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 Senator Holmquist and others on page 2, line 2 to Senate Bill No. 6305.

The motion by Senator Holmquist 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 "the department of health's application for federal funding for the prevention of teen pregnancy under Title V of the federal social security act; and amending RCW 74.12.410."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Senate Bill No. 6305 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Pflug 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. 6305.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6305 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala,

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Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 37

Voting nay: Senators Benton, Carrell, Delvin, Holmquist, Honeyford, McCaslin, Morton, Roach, Schoesler, Stevens and Zarelli - 11

Excused: Senator Swecker - 1

ENGROSSED SENATE BILL NO. 6305, 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. 6241, by Senators Fairley, Pflug, Kohl-Welles, Kline and Franklin

Prohibiting the sale or use of prescriber-identifiable prescription data for commercial or marketing purposes absent prescriber consent. Revised for 1st Substitute: Prohibiting the sale or use of prescriber-identifiable prescription data for commercial or marketing purposes.

#### MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 6241 was substituted for Senate Bill No. 6241 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 6241 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Weinstein and Fairley spoke in favor of passage of the bill.

Senators Carrell and Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6241.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6241 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 22; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McDermott, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 26

Voting nay: Senators Benton, Berkey, Brandland, Carrell, Delvin, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, King, McAuliffe, McCaslin, Morton, Murray, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli - 22

Excused: Senator Swecker - 1

SUBSTITUTE SENATE BILL NO. 6241, 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 9:00 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Tuesday, February 19, 2008.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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1773-S2	Messages	1
1775	Messages	1
1873-S3	Messages	1
2134	Messages	1
2344-S2	Messages	1
2444-S	Messages	1
2449-S2	Messages	1
2485	Messages	1
2507-S2	Messages	1
2514-S2	Messages	1
2527	Messages	1
2537-S2	Messages	1
2557-S2	Messages	1
2580-S	Messages	1
2624-S2	Messages	1
2639-S	Messages	1
2650	Messages	1
2668-S2	Messages	1
2756-S	Messages	1
2764	Messages	1
2781	Messages	2
2823-S	Messages	2
2829-S2	Messages	1
2836-S	Messages	1
2838-S	Messages	2
2850	Messages	1
2884-S	Messages	1
2893-S	Messages	1
2949	Messages	1
2959-S	Messages	2

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2985		Second Reading	9
Messages	1	5628-S	
2996-S		Second Reading	9
Messages	1	Third Reading Final Passage	9
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3047		6060-S	
Messages	1	Second Reading	17
3051-S		Third Reading Final Passage	17
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3104-S2		Second Reading	3
Messages	1	6181-S	
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3145-S2		6206	
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3166-S		6206-S2	
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3205-S2		Second Reading	40
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3281		6264-S	
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