

FIFTY-FIRST DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, March 4, 2008

The Senate was called to order at 9:00 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, Fairley, McDermott, Rasmussen and Rockefeller.

The Sergeant at Arms Color Guard consisting of Pages Andrew Scott and Kyle Wilson, presented the Colors.

The Navy Band Northwest consisting of Lieutenant Charles Roegiers, Director; Musician 1<sup>st</sup> Class James Raasch; Musician 3<sup>rd</sup> Class Drew Williams and Musician 3<sup>rd</sup> Class Eric Cavender performed the National Anthem.

Pastor Bob Rorabaugh of Northshore Baptist Church offered the prayer.

The Navy Band Northwest consisting of Lieutenant Charles Roegiers, Director; Musician 1<sup>st</sup> Class James Raasch; Musician 3<sup>rd</sup> Class Drew Williams and Musician 3<sup>rd</sup> Class Eric Cavender performed the "Stars and Stipes."

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Rear Admiral John P. Currier, Commander of the U. S. Coast Guard Thirteenth District which serves Washington, Idaho, Oregon and Montana, a Coast Guard aviator and a recipient of the Legion of Merit, Distinguished Flying Cross, Meritorious Service Medal, Air Medal and other awards. The President also recognized Lt. Commander Kelly Larson, a watch officer at the Puget Sound Joint Harbor Operations Center in Seattle who was deployed on very short notice to Lewis County to command air operations providing relief and rescue during the December 2007 floods. Lt. Cdr. Larson is also the first woman to graduate, in 1985, from the rescue swimmer school – which averages a 40 percent attrition rate, failure higher even than for the notoriously challenging Navy SEAL program and is a rescue helicopter pilot. Rear Admiral Currier and Lt. Cmdr. Larson were seated at the rostrum.

INTRODUCTION OF SPECIAL GUESTS

The President recognized former Secretary of State Ralph Munro who was present in the wings of the senate and assisted in the day's events.

PERSONAL PRIVILEGE

Senator Swecker: "It's my understanding we have visitors here today from the 13<sup>th</sup> Coast Guard District. I just wanted to take a moment to thank them if I may? I'm the Senator from the Twentieth District. I guess this is a point of personal privilege sir. I'm the Senator from the Twentieth District which includes all of Lewis County and part of Thurston County so you can imagine how we how my district was impacted by the recent flood event. We had an incredible response from the U. S. Coast Guard, six helicopters were deployed from air station Port Angeles, Air Station Astoria, Air Station North Bend, Air Station San Francisco. They reported to the onsite mobile command center at the Chehalis airport in cooperation with FEMA in Region Ten and oh, by the way, that airport went under water. Later we had to move it to a ball field to continue the operations. The six helicopters flew a total of twenty-four hours and rescued one hundred fifty-six people from roofs and tree

tops. More than three hundred other citizens were assisted from dangerous and difficult circumstances. Admiral Currier, Commander of the Thirteenth Coast Guard District, serves as a Coast Guard leader for Washington, Idaho, Oregon and Montana. He has more than eighteen hundred active and civilian employees reporting to his command and more than four hundred reserves. I just want to, at this time, thank you profoundly. I was a helicopter pilot in Vietnam and I know exactly what they went through and I understand how valuable they were. The Lord's on our side when the helicopters arrive. Thank you sir."

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 sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9302, Diana Gale, as a member of the Puget Sound Partnership, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Eide, Haugen, Regala and Spanel were excused.

APPOINTMENT OF DIANA GALE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9302, Diana Gale as a member of the Puget Sound Partnership.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9302, Diana Gale as a member of the Puget Sound Partnership and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 4; Excused, 1.

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

Absent: Senators Fairley, McDermott, Rasmussen and Rockefeller - 4

Excused: Senator Brown - 1

Gubernatorial Appointment No. 9302, Diana Gale, having received the constitutional majority was declared confirmed as a member of the Puget Sound Partnership.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

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Senator Fraser moved that Gubernatorial Appointment No. 9382, Bill Wilkerson, as a member of the Puget Sound Partnership, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Fairley, McDermott, Rasmussen and Rockefeller were excused.

APPOINTMENT OF BILL WILKERSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9382, Bill Wilkerson as a member of the Puget Sound Partnership.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9382, Bill Wilkerson as a member of the Puget Sound Partnership 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, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Fairley, McDermott and Rasmussen - 4

Gubernatorial Appointment No. 9382, Bill Wilkerson, having received the constitutional majority was declared confirmed as a member of the Puget Sound Partnership.

MOTION

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

MOTION

Senator Spanel moved adoption of the following resolution:

SENATE RESOLUTION  
8739

By Senators Spanel and Haugen

WHEREAS, Every April the tulips are in bloom, celebrating the beginning of spring; and

WHEREAS, The beautiful Skagit Valley is the Northwest's tulip capital and the number one producer of tulip bulbs in North America; and

WHEREAS, The Skagit Valley Tulip Festival kicks off the festival season in Washington; and

WHEREAS, Nearly half a million people visited the Skagit Valley Tulip Festival last year, participating in the joy and excitement of the event and contributing to the economy of the Skagit Valley; and

WHEREAS, This year's festival celebrates the 25th anniversary of the event; and

WHEREAS, The festival will run from April 1st through April 30th, focusing on the communities of Sedro-Woolley, Burlington, Anacortes, La Conner, Mount Vernon, Concrete, and Conway; and

WHEREAS, Visitors will be greeted by more than 750 acres of tulips reflecting all the vibrant colors of the rainbow, by the fullness of life in the valley, and by its wonderful people; and

WHEREAS, This year's Tulip Festival Ambassadors, Claire Kenning and Carl Johnson, will ably and personably perform their responsibilities as representatives of the festival; and

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WHEREAS, Highlights of the event include the Kiwanis Salmon Barbecue; art shows; the Tulip Parade; the Tour de Fleur, a benefit for Meals on Wheels programs; the Early Day Gas Engine and Tractor Association National Show; a 10K run; and a 50 mile bike ride;

NOW, THEREFORE, BE IT RESOLVED, That the Senate commend the community leaders and corporate sponsors for the success of this important event and encourage citizens from across Washington to take the time to enjoy this spectacular display; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Skagit Valley Tulip Festival Executive Director Cindy Verge and the Tulip Festival Ambassadors.

Senator Spanel spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8739.

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

MOTION

At 9:33 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 11:14 a.m. by President Owen.

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2602, by House Committee on Commerce & Labor (originally sponsored by Representatives Kessler, Dickerson, Williams, O'Brien, Hurst, Lantz, Moeller, Hasegawa, Pedersen, Ormsby, VanDeWege, Conway, Goodman, Hudgins, Santos, Campbell, Upthegrove, Chase, Darneille, Barlow, Green and Simpson)

Regarding employment leave for victims of domestic violence, sexual assault, or stalking.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce, Research & Development be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) It is in the public interest to reduce domestic violence, sexual assault, and stalking by enabling victims to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize physical and emotional injuries, and to reduce the devastating economic consequences of domestic violence, sexual assault, and stalking to employers and employees. Victims of domestic violence, sexual assault, and stalking should be able to recover from and cope with the effects of such violence and participate in criminal and civil justice processes without fear of adverse economic consequences.

(2) One of the best predictors of whether a victim of domestic violence, sexual assault, or stalking will be able to stay away from an abuser is his or her degree of economic independence. However, domestic violence, sexual assault, and stalking often negatively impact victims' ability to maintain employment.

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(3) An employee who is a victim of domestic violence, sexual assault, or stalking, or an employee whose family member is a victim, must often take leave from work due to injuries, court proceedings, or safety concerns requiring legal protection.

(4) Thus, it is in the public interest to provide reasonable leave from employment for employees who are victims of domestic violence, sexual assault, or stalking, or for employees whose family members are victims, to participate in legal proceedings, receive medical treatment, or obtain other necessary services.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Child," "spouse," "parent," "parent-in-law," "grandparent," and "sick leave and other paid time off" have the same meanings as in RCW 49.12.265.

(2) "Dating relationship" has the same meaning as in RCW 26.50.010.

(3) "Department," "director," "employer," and "employee" have the same meanings as in RCW 49.12.005.

(4) "Domestic violence" has the same meaning as in RCW 26.50.010.

(5) "Family member" means any individual whose relationship to the employee can be classified as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship.

(6) "Intermittent leave" and "reduced leave schedule" have the same meanings as in RCW 49.78.020.

(7) "Sexual assault" has the same meaning as in RCW 70.125.030.

(8) "Stalking" has the same meaning as in RCW 9A.46.110.

**NEW SECTION. Sec. 3.** An employee may take reasonable leave from work, intermittent leave, or leave on a reduced leave schedule, with or without pay, to:

(1) Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's family members including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;

(2) Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the employee's family member;

(3) Obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;

(4) Obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking; or

(5) Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault, or stalking.

**NEW SECTION. Sec. 4.** (1) As a condition of taking leave for any purpose described in section 3 of this act, an employee shall give an employer advance notice of the employee's intention to take leave. The timing of the notice shall be consistent with the employer's stated policy for requesting such leave, if the employer has such a policy. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, the employee or his or her designee must give notice to the employer no later than the end of the first day that the employee takes such leave.

(2) When an employee requests leave under section 3 of this act the employer may require that the request be supported by verification that:

(a) The employee or employee's family member is a victim of domestic violence, sexual assault, or stalking; and

(b) The leave taken was for one of the purposes described in section 3 of this act.

(3) If an employer requires verification, verification must be provided in a timely manner. In the event that advance notice of the leave cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, and the employer requires verification, verification must be provided to the employer within a reasonable time period during or after the leave.

(4) An employee may satisfy the verification requirement of this section by providing the employer with one or more of the following:

(a) A police report indicating that the employee or employee's family member was a victim of domestic violence, sexual assault, or stalking;

(b) A court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, or stalking, or other evidence from the court or the prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking;

(c) Documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional. The provision of documentation under this section does not waive or diminish the confidential or privileged nature of communications between a victim of domestic violence, sexual assault, or stalking with one or more of the individuals named in this subsection (4)(c) pursuant to RCW 5.60.060, 70.123.075, 70.123.076, or 70.125.065; or

(d) An employee's written statement that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of the purposes described in section 3 of this act.

(5) If the victim of domestic violence, sexual assault, or stalking is the employee's family member, verification of the familial relationship between the employee and the victim may include, but is not limited to, a statement from the employee, a birth certificate, a court document, or other similar documentation.

(6) An employee who is absent from work pursuant to section 3 of this act may elect to use the employee's sick leave and other paid time off, compensatory time, or unpaid leave time.

(7) An employee is required to provide only the information enumerated in subsection (2) of this section to establish that the employee's leave is protected under this chapter. An employee is not required to produce or discuss any information with the employer that is beyond the scope of subsection (2) of this section, or that would compromise the employee's safety or the safety of the employee's family member in any way, and an employer is prohibited from requiring any such disclosure.

(8)(a) Except as provided in (b) of this subsection, an employer shall maintain the confidentiality of all information provided by the employee under this section, including the fact that the employee or employee's family member is a victim of domestic violence, sexual assault, or stalking, that the employee has requested or obtained leave under this chapter, and any

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written or oral statement, documentation, record, or corroborating evidence provided by the employee.

(b) Information given by an employee may be disclosed by an employer only if:

- (i) Requested or consented to by the employee;
- (ii) Ordered by a court or administrative agency; or
- (iii) Otherwise required by applicable federal or state law.

**NEW SECTION. Sec. 5.** (1) The taking of leave under section 3 of this act may not result in the loss of any pay or benefits to the employee that accrued before the date on which the leave commenced.

(2) Upon an employee's return, an employer shall either:

(a) Restore the employee to the position of employment held by the employee when the leave commenced; or

(b) Restore the employee to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(3)(a) This section does not apply if the employment from which the individual takes leave is with a staffing company and the individual is assigned on a temporary basis to perform work at or services for another organization to support or supplement the other organization's workforces, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects, all under the direction and supervision of the organization to which the individual is assigned.

(b) This section does not apply if an employee was hired for a specific term or only to perform work on a discrete project, the employment term or project is over, and the employer would not otherwise have continued to employ the employee.

(4) To the extent allowed by law, an employer shall maintain coverage under any health insurance plan for an employee who takes leave under section 3 of this act. The coverage must be maintained for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had not taken the leave.

**NEW SECTION. Sec. 6.** (1) The rights provided in this act are in addition to any other rights provided by state and federal law.

(2) Nothing in this chapter shall be construed to discourage employers from adopting policies that provide greater leave rights to employees who are victims of domestic violence, sexual assault, or stalking than those required by this act.

(3) Nothing in this act shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement, or any employment benefit program or plan, that provides greater leave rights to employees than the rights provided by this act.

**NEW SECTION. Sec. 7.** Upon complaint by an employee, the director shall investigate to determine if there has been compliance with this chapter and the rules adopted under this chapter. If the investigation indicates that a violation has occurred, the director shall issue a notice of infraction. Appeal from the director's decision is governed by chapter 34.05 RCW.

**NEW SECTION. Sec. 8.** Any finding, determination, conclusion, declaration, or notice of infraction made for the purposes of enforcing this chapter by the director or by an appeal tribunal, administrative law judge, or reviewing officer is neither conclusive nor binding in any civil action filed pursuant to section 12 of this act or in any other common law or civil action, regardless of whether the prior action was between the same or related parties or involved the same facts.

**NEW SECTION. Sec. 9.** (1) If an employer is found to have committed an infraction under section 7 of this act, the director may impose upon the employer a fine of up to five hundred dollars for the first infraction and a fine of up to one thousand dollars for each subsequent infraction committed within three years of a previous infraction.

(2) The director may also order an employer found to have committed an infraction under section 7 of this act to comply with section 5(2) of this act.

**NEW SECTION. Sec. 10.** (1) Except as provided in subsection (2) of this section, information contained in the department's complaint files and records of employees under this chapter is confidential and shall not be open to public inspection.

(2) Except as limited by state or federal statute or regulations:

(a) The information in subsection (1) of this section may be provided to public employees in the performance of their official duties; and

(b) A complainant or a representative of a complainant, be it an individual or an organization, may review a complaint file or receive specific information therefrom upon the presentation of the signed authorization of the complainant.

**NEW SECTION. Sec. 11.** No employer may discharge, threaten to discharge, demote, deny a promotion to, sanction, discipline, retaliate against, harass, or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee:

(1) Exercised rights under section 3 of this act;

(2) Filed or communicated to the employer an intent to file a complaint under section 7 or 12 of this act; or

(3) Participated or assisted, as a witness or otherwise, in another employee's attempt to exercise rights under section 3, 7, or 12 of this act.

**NEW SECTION. Sec. 12.** (1) Any employee deeming herself or himself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees.

(2) The remedy provided by this section is in addition to any common law remedy or other remedy that may be available to an employee.

(3) An employee is not required to exhaust administrative remedies before filing a civil action to enforce this chapter.

**NEW SECTION. Sec. 13.** The department shall include notice of the provisions of this chapter in the next reprinting of employment posters printed under RCW 49.78.340. Employers shall post this notice as required in RCW 49.78.340.

**NEW SECTION. Sec. 14.** Prosecuting attorney and victim/witness offices are encouraged to make information regarding this chapter available for distribution at their offices.

**NEW SECTION. Sec. 15.** The director shall adopt rules as necessary to implement this chapter.

**Sec. 16.** RCW 7.69.030 and 2004 c 120 s 8 are each amended to read as follows:

There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights, which apply to any criminal court and/or juvenile court proceeding:

(1) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

(2) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved;

(3) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

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(4) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

(5) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

(6) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

(8) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

(9) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance. Victims of domestic violence, sexual assault, or stalking, as defined in section 2 of this act, shall be notified of their right to reasonable leave from employment under chapter 49. . . . RCW (sections 1 through 15 of this act);

(10) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim. This subsection applies if practical and if the presence of the crime victim advocate or support person does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

(11) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

(12) With respect to victims and survivors of victims, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing for felony convictions upon request by a victim or survivor;

(13) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution;

(14) With respect to victims and survivors of victims, to present a statement personally or by representation, at the sentencing hearing for felony convictions;

(15) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment; and

(16) With respect to victims and survivors of victims, to present a statement in person, via audio or videotape, in writing

or by representation at any hearing conducted regarding an application for pardon or commutation of sentence.

NEW SECTION. Sec. 17. Sections 1 through 15 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. Sec. 18. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce, Research & Development to Substitute House Bill No. 2602.

The motion by Senator Kohl-Welles carried and the committee 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 "stalking;" strike the remainder of the title and insert "amending RCW 7.69.030; adding a new chapter to Title 49 RCW; and declaring an emergency."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2602 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles 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 House Bill No. 2602 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2602 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 2602 as amended by the Senate, 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

SUBSTITUTE HOUSE BILL NO. 2427, by House Committee on Commerce & Labor (originally sponsored by Representatives Kenney, Hankins, Dickerson, Conway, Ormsby, Pettigrew, Santos, Fromhold, Haler, Sullivan, Schual-Berke, Moeller, McCoy, Quall, Darneille, Morris, Williams, Skinner, Flannigan, Bailey, Kelley, Hunt, Campbell, Grant, Morrell, Chase, Barlow and Green)

Modifying provisions for the cosmetology apprenticeship program.

The measure was read the second time.

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## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2427 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2427.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2427 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, 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, Swecker, Tom, Weinstein and Zarelli - 48

Voting nay: Senator Brown - 1

SUBSTITUTE HOUSE BILL NO. 2427, 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

SUBSTITUTE HOUSE BILL NO. 2963, by House Committee on Appropriations (originally sponsored by Representatives Conway, Campbell, Chase, Hasegawa, Sullivan, Simpson, Seaquist, Appleton, Sells, Wood, Green, Blake, Ericks, Kenney, Williams, McIntire, Pettigrew, Kirby, Moeller, Fromhold, Hunt, VanDeWege, Ormsby and Hudgins)

Authorizing collective bargaining for Washington State University employees who are enrolled in academic programs.

The measure was read the second time.

## MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce, Research & Development be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature acknowledges the ability of student employees who provide instructional, research, and related academic services at the University of Washington to collectively bargain and recognizes that student employees performing equivalent services at Washington State University do not enjoy collective bargaining rights. The legislature further recognizes that while the titles of the student employees may differ between the two institutions, student employees at Washington State University should enjoy the same collective bargaining rights as their counterparts at the University of Washington. The legislature therefore intends to grant bargaining rights to student employees at Washington State University to the same extent such rights are granted to student employees at the University of Washington.

(2) This act is intended to promote cooperative labor relations between Washington State University and the employees who provide instructional, research, and related academic services, and who are enrolled as students at the university by extending collective bargaining rights under

chapter 41.56 RCW and using the orderly procedures administered by the public employment relations commission. To achieve this end, the legislature intends that under chapter 41.56 RCW the university will exclusively bargain in good faith over all matters within the scope of bargaining under section 2 of this act.

(3) The legislature recognizes the importance of the shared governance practices developed at Washington State University. The legislature does not intend to restrict, limit, or prohibit the exercise of the functions of the faculty in any shared governance mechanisms or practices, including the faculty senate, faculty councils, and faculty codes of Washington State University; nor does the legislature intend to restrict, limit, or prohibit the exercise of the functions of the graduate and professional student association, the associated students of Washington State University, or any other student organization in matters outside the scope of bargaining covered by chapter 41.56 RCW.

(4) The legislature intends that nothing in this act will restrict, limit, or prohibit Washington State University from consideration of the merits, necessity, or organization of any program, activity, or service established by Washington State University, including, but not limited to, any decision to establish, modify, or discontinue any such program, activity, or service. The legislature further intends that nothing in this act will restrict, limit, or prohibit Washington State University from having sole discretion over admission requirements for students, criterion for the award of certificates and degrees to students, academic criterion for selection of employees covered by this act, initial appointment of students, and the content, conduct, and supervision of courses, curricula, grading requirements, and research programs.

(5) The legislature does not intend to limit the matters excluded from collective bargaining to those items specified in section 2 of this act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.56 RCW to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to Washington State University with respect to employees who are enrolled in an academic program and are in a classification in (a) through (g) of this subsection on any Washington State University campus. The employees in (a) through (g) of this subsection constitute an appropriate bargaining unit:

- (a) Graduate teaching assistant;
- (b) Graduate staff assistant;
- (c) Graduate project assistant;
- (d) Graduate veterinary assistant;
- (e) Tutor, reader, and graders in all academic units and tutoring centers;

(f) Except as provided in this subsection (1)(f), graduate research assistant. The employees that constitute an appropriate bargaining unit under this subsection (1) do not include graduate research assistants who are performing research primarily related to their dissertation and who have incidental or no service expectations placed upon them by the university; and

(g) All employees enrolled in an academic program whose duties and responsibilities are substantially equivalent to those employees in (a) through (f) of this subsection.

(2)(a) The scope of bargaining for employees at Washington State University under this section excludes:

(i) The ability to terminate the employment of any individual if the individual is not meeting academic requirements as determined by Washington State University;

(ii) The amount of tuition or fees at Washington State University. However, tuition and fee remission and waiver is within the scope of bargaining;

(iii) The academic calendar of Washington State University; and

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(iv) The number of students to be admitted to a particular class or class section at Washington State University.

(b)(i) Except as provided in (b)(ii) of this subsection, provisions of collective bargaining agreements relating to compensation must not exceed the amount or percentage established by the legislature in the appropriations act. If any compensation provision is affected by subsequent modification of the appropriations act by the legislature, both parties must immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the affected provision.

(ii) Washington State University may provide additional compensation to student employees covered by this section that exceeds that provided by the legislature.

**NEW SECTION. Sec. 3.** 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."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce, Research & Development to Substitute House Bill No. 2963.

The motion by Senator Kohl-Welles carried and the committee 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 "programs;" strike the remainder of the title and insert "adding a new section to chapter 41.56 RCW; and creating new sections."

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2963 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2963 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2963 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Benton, 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, Roach, Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 34

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

SUBSTITUTE HOUSE BILL NO. 2963 as amended by the Senate, 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

SUBSTITUTE HOUSE BILL NO. 3029, by House Committee on Transportation (originally sponsored by Representatives Eddy, Takko, Armstrong, Sells, Simpson and Springer)

Requiring the provision of a secure internet-based system to generate temporary permits to operate vehicles. Revised for 1st Substitute: Providing access to a secure system to generate temporary permits to operate vehicles.

The measure was read the second time.

## MOTION

On motion of Senator Marr, the rules were suspended, Substitute House Bill No. 3029 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3029.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3029 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 3029, 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

HOUSE BILL NO. 3275, by Representatives Linville, Ericksen, Morris and McIntire

Revising the taxation of grocery distribution cooperatives.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 3275 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3275.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3275 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 3275, 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

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3123, by House Committee on Appropriations (originally sponsored by Representatives Morrell, Cody, Roberts, Green and Ormsby)

Establishing a process to identify best practices related to patient safety. Revised for 2nd Substitute: Establishing evidence-based nurse staffing in hospitals.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute House Bill No. 3123 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser 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 Second Substitute House Bill No. 3123.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3123 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3123, 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 12:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:58 p.m. by President Owen.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

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Senator Spanel moved that Gubernatorial Appointment No. 9349, Steve Sakuma, as a member of the Puget Sound Partnership, be confirmed.

Senator Spanel spoke in favor of the motion.

#### MOTION

On motion of Senator Brandland, Senators Benton, Delvin and Parlette were excused.

#### MOTION

On motion of Senator Eide, Senator Brown was excused.

#### APPOINTMENT OF STEVE SAKUMA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9349, Steve Sakuma as a member of the Puget Sound Partnership.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9349, Steve Sakuma as a member of the Puget Sound Partnership and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, 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, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 45

Absent: Senators Murray and Zarelli - 2

Excused: Senators Brown and Delvin - 2

Gubernatorial Appointment No. 9349, Steve Sakuma, having received the constitutional majority was declared confirmed as a member of the Puget Sound Partnership.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Haugen moved that Gubernatorial Appointment No. 9307, Paula Hammond, as Secretary of the Department of Transportation, be confirmed.

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

#### MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

#### MOTION

On motion of Senator McDermott, Senator Murray was excused.

#### APPOINTMENT OF PAULA HAMMOND

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9307, Paul Hammond as Secretary of the Department of Transportation.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9307, Paula Hammond as Secretary of the Department of Transportation and the appointment was confirmed by the following vote: Yeas, 46;



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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, Kastama, Kauffman, Keiser, Kilmner, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 46

Excused: Senators Brown, Murray and Zarelli - 3

Gubernatorial Appointment No. 9307, Paula Hammond, having received the constitutional majority was declared confirmed as Secretary of the Department of Transportation.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2714, by House Committee on Appropriations (originally sponsored by Representatives Loomis, Hurst, Lantz, Upthegrove, Conway, Simpson, VanDeWege and Kelley)

Changing provisions concerning registration of sex offenders and kidnapping offenders. Revised for 2nd Substitute: Making failure to register as a sex offender a class B felony.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The sex offender policy board, as created by chapter . . . (Substitute Senate Bill No. 6596), Laws of 2008, shall review and make recommendations for changes to the statutory requirements relating to sex offender and kidnapping offender registration and notification. The review and recommendations shall include, but are not limited to:

(a) The appropriate class of felony and sentencing designations for a conviction of the failure to register;

(b) The appropriate groups and classes of adult offenders who should be required to register;

(c) The appropriate groups and classes of juvenile offenders who should be required to register;

(d) When a sex offender or kidnapping offender should be relieved of registration or notification requirements and the process for termination of those obligations; and

(e) Simplification of the statutory language to allow the department of corrections, law enforcement, and offenders to more easily identify registration and notification requirements.

(2) In formulating its recommendations, the board shall review the experience of other jurisdictions and any available evidence-based research to ensure that its recommendations have the maximum impact on public safety.

(3) The board shall report to the governor and the relevant committees of the legislature no later than November 1, 2009."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Second Substitute House Bill No. 2714.

The motion by Senator Hargrove carried and the committee 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 "felony;" strike the remainder of the title and insert "and creating a new section."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 2714 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2714 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2714 as amended by the Senate and the bill passed the Senate 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, Kastama, Kauffman, Keiser, Kilmner, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 46

Excused: Senators Brown, Murray and Zarelli - 3

SECOND SUBSTITUTE HOUSE BILL NO. 2714 as amended by the Senate, 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

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1031, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins, Moeller, Linville, B. Sullivan and Chase)

Changing provisions concerning electronic devices.

The measure was read the second time.

#### MOTION

Senator Berkey moved that the following committee striking amendment by the Committee on Financial Institutions & Insurance be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that Washington state, from its inception, has recognized the importance of maintaining individual privacy. The legislature further finds that protecting the confidentiality and privacy of an individual's personal information, especially when collected from the individual without his or her knowledge or consent, is critical to maintaining the safety and well-being of its citizens. The legislature recognizes that inclusion of identification devices that broadcast data or enable data or information to be collected or scanned either secretly or remotely, or both, may greatly magnify the potential risk to individual privacy, safety, and economic well-being that can occur from unauthorized interception and use of personal information. The legislature further recognizes that these types of technologies, whether offered by the private sector or issued by the government, can be pervasive.

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**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Identification device" means an item that uses radio frequency identification technology or facial recognition technology.

(2) "Person" means a natural person who resides in Washington.

(3) "Personal information" has the same meaning as in RCW 19.255.010.

(4) "Data" means personal information, numerical values associated with a person's facial features, or unique personal identifier numbers stored on an identification device.

(5) "Radio frequency identification" means a technology that uses radio waves to transmit data remotely to readers.

(6) "Reader" means a scanning device that is capable of using radio waves to communicate with an identification device and read the data transmitted by that identification device.

(7) "Remotely" means that no physical contact between the identification device and the reader is necessary in order to transmit data.

(8) "Unique personal identifier number" means a randomly assigned string of numbers or symbols that is encoded on the identification device and is intended to identify the identification device.

**NEW SECTION. Sec. 3.** A person that intentionally scans another person's identification device remotely, without that person's prior knowledge and prior consent, for the purpose of fraud, identity theft, or for any other illegal purpose, shall be guilty of a class C felony.

**NEW SECTION. Sec. 4.** If any provision of this act is found to be in conflict with federal law or regulations, the conflicting provision of this act is declared to be inoperative solely to the extent of the conflict, and that finding or determination shall not affect the operation of the remainder of this act.

**NEW SECTION. Sec. 5.** Sections 2 and 3 of this act constitute a new chapter in Title 19 RCW."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions & Insurance to Engrossed Substitute House Bill No. 1031.

The motion by Senator Berkey carried and the committee 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 "devices;" strike the remainder of the title and insert "adding a new chapter to Title 19 RCW; creating new sections; and prescribing penalties."

#### MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute House Bill No. 1031 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Berkey 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 House Bill No. 1031 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1031 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Murray - 2

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1031 as amended by the Senate, 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

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3186, by House Committee on Appropriations Subcommittee on General Government & Audit Review (originally sponsored by Representative Nelson)

Authorizing the creation of beach management districts.

The measure was read the second time.

#### MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Water, Energy & Telecommunications be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.61.010 and 1987 c 432 s 1 are each amended to read as follows:

The legislature finds that the environmental, recreational, and aesthetic values of many of the state's lakes are threatened by eutrophication and other deterioration and that existing governmental authorities are unable to adequately improve and maintain the quality of the state's lakes.

The legislature intends that an ecosystem-based beach management approach should be used to help promote the health of aquatic ecosystems and that such a management approach be undertaken in a manner that retains ecosystem values within the state. This management approach should use long-term strategies that focus on reducing nutrient inputs from human activities affecting the aquatic ecosystem, such as decreasing nutrients into storm water sewers, decreasing fertilizer application, promoting the proper disposal of pet waste, promoting the use of vegetative borders, promoting the reduction of nutrients from on-site septic systems where appropriate, and protecting riparian areas. Organic debris, including vegetation, driftwood, seaweed, kelp, and organisms, are extremely important to beach ecosystems.

It is the purpose of this chapter to establish a governmental mechanism by which property owners can embark on a program of lake or beach improvement and maintenance for their and the general public's benefit, health, and welfare. Public property, including state property, shall be considered the same as private property in this chapter, except liens for special assessments and liens for rates and charges shall not extend to public property. Lake bottom property and marine property below the line of the ordinary high water mark shall not be considered to be benefited, shall not be subject to special assessments or rates and charges, and shall not receive voting rights under this chapter.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.61 RCW to read as follows:

(1) Beach management districts may be created for the purpose of controlling and removing aquatic plants or vegetation. These districts must develop a plan for these activities, in consultation with appropriate federal, state, and local agencies. The plan must include an element addressing nutrient loading from land use activities in a subbasin that is a tributary to the area targeted for management. The plan must be

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consistent with the action agenda approved by the Puget Sound partnership, where applicable.

(2) Plans for the control and removal of aquatic plants or vegetation must, to the greatest extent possible, meet the following requirements:

(a) Avoid or minimize the excess removal of living and nonliving nontarget native vegetation and organisms;

(b) Avoid or minimize management activities that will result in compacting beach sand, gravel, and substrate;

(c) Minimize adverse impacts to: (i) The project site when disposing of excessive accumulations of vegetation; and (ii) other areas of the beach or deep water environment; and

(d) Retain all natural habitat features on the beach, including retaining trees, stumps, logs, and large rocks in their natural location.

(3) Seaweed removal under this section may only occur on the shore of a saltwater body that lies between the extreme low tide and the ordinary high water mark, as those terms are defined in RCW 90.58.030.

(4) The control or removal of native aquatic plants or vegetation shall be authorized in the following areas:

(a) Beaches or near shore areas located within at least one mile of a ferry terminal that are in a county with a population of one million or more residents; and

(b) Beaches or near shore areas in a city that meets the following:

(i) Is adjacent to Puget Sound;

(ii) Has at least eighty-five thousand residents;

(iii) Shares a common boundary with a neighboring county; and

(iv) Is in a county with a population of one million or more residents.

**Sec. 3.** RCW 36.61.020 and 2000 c 184 s 5 are each amended to read as follows:

Any county may create lake or beach management districts to finance the improvement and maintenance of lakes or beaches located within or partially within the boundaries of the county. All or a portion of a lake or beach and the adjacent land areas may be included within one or more lake or beach management districts. More than one lake or beach, or portions of lakes or beaches, and the adjacent land areas may be included in a single lake or beach management district.

Special assessments or rates and charges may be imposed on the property included within a lake or beach management district to finance lake or beach improvement and maintenance activities, including: (1) ~~((The control or removal of))~~ Controlling or removing aquatic plants and vegetation; (2) improving water quality; (3) ~~((the control of))~~ controlling water levels; (4) treating and diverting storm water ~~((diversion and treatment))~~; (5) controlling agricultural waste ~~((control))~~; (6) studying lake or marine water quality problems and solutions; (7) cleaning and maintaining ditches and streams entering the lake or marine waters or leaving the lake; ~~((and))~~ (8) monitoring air quality; and (9) the related administrative, engineering, legal, and operational costs, including the costs of creating the lake or beach management district.

Special assessments or rates and charges may be imposed annually on all the land in a lake or beach management district for the duration of the lake or beach management district without a related issuance of lake or beach management district bonds or revenue bonds. Special assessments also may be imposed in the manner of special assessments in a local improvement district with each landowner being given the choice of paying the entire special assessment in one payment, or to paying installments, with lake or beach management district bonds being issued to obtain moneys not derived by the initial full payment of the special assessments, and the installments covering all of the costs related to issuing, selling, and redeeming the lake or beach management district bonds.

**Sec. 4.** RCW 36.61.025 and 2000 c 184 s 4 are each amended to read as follows:

To improve the ability of counties to finance long-term lake or beach management objectives, lake or beach management districts may be created for any needed period of time.

**Sec. 5.** RCW 36.61.030 and 1987 c 432 s 3 are each amended to read as follows:

A lake or beach management district may be initiated upon either the adoption of a resolution of intention by a county legislative authority or the filing of a petition signed by ten landowners or the owners of at least fifteen percent of the acreage contained within the proposed lake or beach management district, whichever is greater. A petition or resolution of intention shall set forth: (1) The nature of the lake or beach improvement or maintenance activities proposed to be financed; (2) the amount of money proposed to be raised by special assessments or rates and charges; (3) if special assessments are to be imposed, whether the special assessments will be imposed annually for the duration of the lake or beach management district, or the full special assessments will be imposed at one time, with the possibility of installments being made to finance the issuance of lake or beach management district bonds, or both methods; (4) if rates and charges are to be imposed, the annual amount of revenue proposed to be collected and whether revenue bonds payable from the rates and charges are proposed to be issued; (5) the number of years proposed for the duration of the lake or beach management district; and (6) the proposed boundaries of the lake or beach management district.

The county legislative authority may require the posting of a bond of up to five thousand dollars before the county considers the proposed creation of a lake or beach management district initiated by petition. The bond may only be used by the county to finance its costs in studying, holding hearings, making notices, preparing special assessment rolls or rolls showing the rates and charges on each parcel, and conducting elections related to the lake or beach management district if the proposed lake or beach management district is not created.

A resolution of intention shall also designate the number of the proposed lake or beach management district, and fix a date, time, and place for a public hearing on the formation of the proposed lake or beach management district. The date for the public hearing shall be at least thirty days and no more than ninety days after the adoption of the resolution of intention unless an emergency exists.

Petitions shall be filed with the county legislative authority. The county legislative authority shall determine the sufficiency of the signatures, which shall be conclusive upon all persons. No person may withdraw his or her name from a petition after it is filed. If the county legislative authority determines a petition to be sufficient and the proposed lake or beach management district appears to be in the public interest and the financing of the lake or beach improvement or maintenance activities is feasible, it shall adopt a resolution of intention, setting forth all of the details required to be included when a resolution of intention is initiated by the county legislative authority.

**Sec. 6.** RCW 36.61.040 and 1994 c 264 s 9 are each amended to read as follows:

Notice of the public hearing shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed lake or beach management district, the date of the first publication to be at least fifteen days prior to the date fixed for the public hearing by the resolution of intention. Notice of the public hearing shall also be given to the owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed lake or beach management district by mailing the notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county assessor at the address shown thereon. Notice of the public hearing shall also be mailed to the departments of fish and wildlife, natural resources, and ecology at least fifteen days before the date fixed for the public hearing.

Notices of the public hearing shall: (1) Refer to the resolution of intention; (2) designate the proposed lake or beach management district by number; (3) set forth a proposed plan describing: (a) The nature of the proposed lake or beach improvement or maintenance activities; (b) the amount of special assessments or rates and charges proposed to be raised by the lake or beach management district; (c) if special assessments are proposed to be imposed, whether the special

assessments will be imposed annually for the duration of the lake or beach management district, or the full special assessments will be payable at one time, with the possibility of periodic installments being paid and lake or beach management bonds being issued, or both; (d) if rates and charges are proposed to be imposed, the annual amount of revenue proposed to be collected and whether revenue bonds payable from the rates and charges are proposed to be issued; and (e) the proposed duration of the lake or beach management district; and (4) indicate the date, time, and place of the public hearing designated in the resolution of intention.

In the case of the notice sent to each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost of the lake or beach improvement or maintenance activities to be borne by special assessment, or annual special assessments, or rates and charges on the lot, tract, parcel of land, or other property owned by the owner or reputed owner.

If the county legislative authority has designated a committee of itself or an officer to hear complaints and make recommendations to the full county legislative authority, as provided in RCW 36.61.060, the notice shall also describe this additional step before the full county legislative authority may adopt a resolution creating the lake or beach management district.

Sec. 7. RCW 36.61.050 and 1994 c 264 s 10 are each amended to read as follows:

The county legislative authority shall hold a public hearing on the proposed lake or beach management district at the date, time, and place designated in the resolution of intention.

At this hearing the county legislative authority shall hear objections from any person affected by the formation of the lake or beach management district. Representatives of the departments of fish and wildlife, natural resources, and ecology shall be afforded opportunities to make presentations on and comment on the proposal. Members of the public shall be afforded an opportunity to comment on the proposal. The county legislative authority must consider recommendations provided to it by the departments of fish and wildlife, natural resources, and ecology. The public hearing may be extended to other times and dates declared at the public hearing. The county legislative authority may make such changes in the boundaries of the lake or beach management district or such modification in plans for the proposed lake or beach improvement or maintenance activities as it deems necessary. The county legislative authority may not change boundaries of the lake or beach management district to include property that was not included previously without first passing an amended resolution of intention and giving new notice to the owners or reputed owners of property newly included in the proposed lake or beach management district in the manner and form and within the time provided for the original notice. The county legislative authority shall not alter the plans for the proposed lake or beach improvement or maintenance activities to result in an increase in the amount of money proposed to be raised, and shall not increase the amount of money proposed to be raised, without first passing an amended resolution of intention and giving new notice to property owners in the manner and form and within the time provided for the original notice.

Sec. 8. RCW 36.61.060 and 1985 c 398 s 10 are each amended to read as follows:

A county legislative authority may adopt an ordinance providing for a committee of itself, or an officer, to hold public hearings on the proposed formation of a lake or beach management district and hear objections to the proposed formation as provided in RCW 36.61.050. The committee or officer shall make a recommendation to the full legislative authority, which need not hold a public hearing on the proposed creation of the lake or beach management district. The full county legislative authority by resolution may approve or disapprove the recommendation and submit the question of creating the lake or beach management district to the property owners as provided in RCW 36.61.070 through 36.61.100.

Sec. 9. RCW 36.61.070 and 1987 c 432 s 5 are each amended to read as follows:

After the public hearing, the county legislative authority may adopt a resolution submitting the question of creating the lake or beach management district to the owners of land within the proposed lake or beach management district, including publicly owned land, if the county legislative authority finds that it is in the public interest to create the lake or beach management district and the financing of the lake or beach improvement and maintenance activities is feasible. The resolution shall also include: (1) A plan describing the proposed lake or beach improvement and maintenance activities which avoid adverse impacts on fish and wildlife and provide for appropriate measures to protect and enhance fish and wildlife; (2) the number of years the lake or beach management district will exist; (3) the amount to be raised by special assessments or rates and charges; (4) if special assessments are to be imposed, whether the special assessments shall be imposed annually for the duration of the lake or beach management district or only once with the possibility of installments being imposed and lake or beach management bonds being issued, or both, and, if both types of special assessments are proposed to be imposed, the lake or beach improvement or maintenance activities proposed to be financed by each type of special assessment; (5) if rates and charges are to be imposed, a description of the rates and charges and the possibility of revenue bonds being issued that are payable from the rates and charges; and (6) the estimated special assessment or rate and charge proposed to be imposed on each parcel included in the proposed lake or beach management district.

No lake or beach management district may be created by a county that includes territory located in another county without the approval of the legislative authority of the other county.

Sec. 10. RCW 36.61.080 and 1987 c 432 s 6 are each amended to read as follows:

(1) A ballot shall be mailed to each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed lake management district, including publicly owned land, which ballot shall contain the following proposition:

"Shall lake management district No. . . . be formed?"

Yes . . . . .  
No . . . . ."

(2) A ballot shall be mailed to each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed beach management district, including publicly owned land, which ballot shall contain the following proposition:

"Shall beach management district No. . . . be formed?"

Yes . . . . .  
No . . . . ."

(3) In addition, the ballot shall contain appropriate spaces for the signatures of the landowner or landowners, or officer authorized to cast such a ballot. Each ballot shall include a description of the property owner's property and the estimated special assessment, or rate and charge, proposed to be imposed upon the property. A copy of the instructions and the resolution submitting the question to the landowners shall also be included.

Sec. 11. RCW 36.61.090 and 1987 c 432 s 7 are each amended to read as follows:

The balloting shall be subject to the following conditions, which shall be included in the instructions mailed with each ballot, as provided in RCW 36.61.080: (1) All ballots must be signed by the owner or reputed owner of property according to the assessor's tax rolls; (2) each ballot must be returned to the county legislative authority not later than ((five o'clock)) 5:00 p.m. of a specified day, which shall be at least twenty but not more than thirty days after the ballots are mailed; (3) each property owner shall mark his or her ballot for or against the creation of the proposed lake or beach management district, with the ballot weighted so that the property owner has one vote for each dollar of estimated special assessment or rate and charge proposed to be imposed on his or her property; and (4) the valid ballots shall be tabulated and a simple majority of the votes cast shall determine whether the proposed lake or beach management district shall be approved or rejected.

Sec. 12. RCW 36.61.100 and 1987 c 432 s 8 are each amended to read as follows:

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If the proposal receives a simple majority vote in favor of creating the lake or beach management district, the county legislative authority shall adopt an ordinance creating the lake or beach management district and may proceed with establishing the special assessments or rates and charges, collecting the special assessments or rates and charges, and performing the lake or beach improvement or maintenance activities. If a proposed lake management district includes more than one lake and its adjacent areas, the lake management district may only be established if the proposal receives a simple majority vote in favor of creating it by the voters on each lake and its adjacent areas. The county legislative authority shall publish a notice in a newspaper of general circulation in a lake or beach management district indicating that such an ordinance has been adopted within ten days of the adoption of the ordinance.

The ballots shall be available for public inspection after they are counted.

**Sec. 13.** RCW 36.61.110 and 1985 c 398 s 11 are each amended to read as follows:

No lawsuit may be maintained challenging the jurisdiction or authority of the county legislative authority to proceed with the lake or beach improvement and maintenance activities and creating the lake or beach management district or in any way challenging the validity of the actions or decisions or any proceedings relating to the actions or decisions unless the lawsuit is served and filed no later than forty days after publication of a notice that the ordinance has been adopted ordering the lake or beach improvement and maintenance activities and creating the lake or beach management district. Written notice of the appeal shall be filed with the county legislative authority and clerk of the superior court in the county in which the property is situated.

**Sec. 14.** RCW 36.61.115 and 1987 c 432 s 9 are each amended to read as follows:

A special assessment, or rate and charge, on any lot, tract, parcel of land, or other property shall not be increased beyond one hundred ten percent of the estimated special assessment, or rate and charge, proposed to be imposed as provided in the resolution adopted in RCW 36.61.070, unless the creation of a lake or beach management district is approved under another mailed ballot election that reflects the weighted voting arising from such increases.

**Sec. 15.** RCW 36.61.120 and 1985 c 398 s 12 are each amended to read as follows:

After a lake or beach management district is created, the county shall prepare a proposed special assessment roll. A separate special assessment roll shall be prepared for annual special assessments if both annual special assessments and special assessments paid at one time are imposed. The proposed special assessment roll shall list: (1) Each separate lot, tract, parcel of land, or other property in the lake or beach management district; (2) the acreage of such property, and the number of feet of lake or beach frontage, if any; (3) the name and address of the owner or reputed owner of each lot, tract, parcel of land, or other property as shown on the tax rolls of the county assessor; and (4) the special assessment proposed to be imposed on each lot, tract, parcel of land, or other property, or the annual special assessments proposed to be imposed on each lot, tract, parcel of land, or other property.

At the time, date, and place fixed for a public hearing, the county legislative authority shall act as a board of equalization and hear objections to the special assessment roll, and at the times to which the public hearing may be adjourned, the county legislative authority may correct, revise, raise, lower, change, or modify the special assessment roll or any part thereof, or set the proposed special assessment roll aside and order a new proposed special assessment roll to be prepared. The county legislative authority shall confirm and approve a special assessment roll by adoption of a resolution.

If a proposed special assessment roll is amended to raise any special assessment appearing thereon or to include omitted property, a new public hearing shall be held. The new public hearing shall be limited to considering the increased special assessments or omitted property. Notices shall be sent to the owners or reputed owners of the affected property in the same

manner and form and within the time provided for the original notice.

Objections to a proposed special assessment roll must be made in writing, shall clearly state the grounds for objections, and shall be filed with the governing body prior to the public hearing. Objections to a special assessment or annual special assessments that are not made as provided in this section shall be deemed waived and shall not be considered by the governing body or a court on appeal.

**Sec. 16.** RCW 36.61.140 and 1985 c 398 s 14 are each amended to read as follows:

Notice of the original public hearing on the proposed special assessment roll, and any public hearing held as a result of raising special assessments or including omitted property, shall be published and mailed to the owner or reputed owner of the property as provided in RCW 36.61.040 for the public hearing on the formation of the lake or beach management district. However, the notice need only provide the total amount to be collected by the special assessment roll and shall state that: (1) A public hearing on the proposed special assessment roll will be held, giving the time, date, and place of the public hearing; (2) the proposed special assessment roll is available for public perusal, giving the times and location where the proposed special assessment roll is available for public perusal; (3) objections to the proposed special assessment must be in writing, include clear grounds for objections, and must be filed prior to the public hearing; and (4) failure to so object shall be deemed to waive an objection.

Notices mailed to the owners or reputed owners shall additionally indicate the amount of special assessment ascribed to the particular lot, tract, parcel of land, or other property owned by the person so notified.

**Sec. 17.** RCW 36.61.160 and 1987 c 432 s 10 are each amended to read as follows:

Whenever special assessments are imposed, all property included within a lake or beach management district shall be considered to be the property specially benefited by the lake or beach improvement or maintenance activities and shall be the property upon which special assessments are imposed to pay the costs and expenses of the lake or beach improvement or maintenance activities, or such part of the costs and expenses as may be chargeable against the property specially benefited. The special assessments shall be imposed on property in accordance with the special benefits conferred on the property up to but not in excess of the total costs and expenses of the lake or beach improvement or maintenance activities as provided in the special assessment roll.

Special assessments may be measured by front footage, acreage, the extent of improvements on the property, or any other factors that are deemed to fairly reflect special benefits, including those authorized under RCW 35.51.030. Special assessments may be calculated by using more than one factor. Zones around the public improvement may be used that reflect different levels of benefit in each zone that are measured by a front footage, acreage, the extent of improvements, or other factors.

Public property, including property owned by the state of Washington, shall be subject to special assessments to the same extent that private property is subject to the special assessments, except no lien shall extend to public property.

**Sec. 18.** RCW 36.61.170 and 1985 c 398 s 17 are each amended to read as follows:

The total annual special assessments may not exceed the estimated cost of the lake or beach improvement or maintenance activities proposed to be financed by such special assessments, as specified in the resolution of intention. The total of special assessments imposed in a lake or beach management district that are of the nature of special assessments imposed in a local improvement district shall not exceed one hundred fifty percent of the estimated total cost of the lake or beach improvement or maintenance activities that are proposed to be financed by the lake or beach management district as specified in the resolution of intention. After a lake or beach management district has been created, the resolution of intention may be amended to increase the amount to be financed by the lake or beach management

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district by using the same procedure in which a lake or beach management district is created.

**Sec. 19.** RCW 36.61.190 and 1985 c 398 s 19 are each amended to read as follows:

Special assessments and installments on any special assessment shall be collected by the county treasurer.

The county treasurer shall publish a notice indicating that the special assessment roll has been confirmed and that the special assessments are to be collected. The notice shall indicate the duration of the lake or beach management district and shall describe whether the special assessments will be paid in annual payments for the duration of the lake or beach management district, or whether the full special assessments will be payable at one time, with the possibility of periodic installments being paid and lake or beach management bonds being issued, or both.

If the special assessments are to be payable at one time, the notice additionally shall indicate that all or any portion of the special assessments may be paid within thirty days from the date of publication of the first notice without penalty or interest. This notice shall be published in a newspaper of general circulation in the lake or beach management district.

Within ten days of the first newspaper publication, the county treasurer shall notify each owner or reputed owner of property whose name appears on the special assessment roll, at the address shown on the special assessment roll, for each item of property described on the list: (1) Whether one special assessment payable at one time or special assessments payable annually have been imposed; (2) the amount of the property subject to the special assessment or annual special assessments; and (3) the total amount of the special assessment due at one time, or annual amount of special assessments due. If the special assessment is due at one time, the notice shall also describe the thirty-day period during which the special assessment may be paid without penalty, interest, or cost.

**Sec. 20.** RCW 36.61.200 and 1985 c 398 s 20 are each amended to read as follows:

If the special assessments are to be payable at one time, all or any portion of any special assessment may be paid without interest, penalty, or costs during this thirty-day period and placed into a special fund to defray the costs of the lake or beach improvement or maintenance activities. The remainder shall be paid in installments as provided in a resolution adopted by the county legislative authority, but the last installment shall be due at least two years before the maximum term of the bonds issued to pay for the improvements or maintenance. The installments shall include amounts sufficient to redeem the bonds issued to pay for the lake or beach improvement and maintenance activities. A twenty-day period shall be allowed after the due date of any installment within which no interest, penalty, or costs on the installment may be imposed.

The county shall establish by ordinance an amount of interest that will be imposed on late special assessments imposed annually or at once, and on installments of a special assessment. The ordinance shall also specify the penalty, in addition to the interest, that will be imposed on a late annual special assessment, special assessment, or installment which shall not be less than five percent of the delinquent special assessment or installment.

The owner of any lot, tract, parcel of land, or other property charged with a special assessment may redeem it from all liability for the unpaid amount of the installments by paying, to the county treasurer, the remaining portion of the installments that is attributable to principal on the lake or beach management district bonds.

**Sec. 21.** RCW 36.61.220 and 1985 c 398 s 22 are each amended to read as follows:

Within fifteen days after a county creates a lake or beach management district, the county shall cause to be filed with the county treasurer, a description of the lake or beach improvement and maintenance activities proposed that the lake or beach management district finances, the lake or beach management district number, and a copy of the diagram or print showing the boundaries of the lake or beach management district and preliminary special assessment roll or abstract of same showing thereon the lots, tracts, parcels of land, and other property that

will be specially benefited thereby and the estimated cost and expense of such lake or beach improvement and maintenance activities to be borne by each lot, tract, parcel of land, or other property. The treasurer shall immediately post the proposed special assessment roll upon his or her index of special assessments against the properties affected by the lake or beach improvement or maintenance activities.

**Sec. 22.** RCW 36.61.230 and 1985 c 398 s 23 are each amended to read as follows:

The special assessment or annual special assessments imposed upon the respective lots, tracts, parcels of land, and other property in the special assessment roll or annual special assessment roll confirmed by resolution of the county legislative authority for the purpose of paying the cost and expense in whole or in part of any lake or beach improvement or maintenance activities shall be a lien upon the property assessed from the time the special assessment roll is placed in the hands of the county treasurer for collection, but as between the grantor and grantee, or vendor and vendee of any real property, when there is no express agreement as to payment of the special assessments against the real property, the lien of such special assessments shall attach thirty days after the filing of the diagram or print and the estimated cost and expense of such lake or beach improvement or maintenance activities to be borne by each lot, tract, parcel of land, or other property, as provided in RCW 36.61.220. Interest and penalty shall be included in and shall be a part of the special assessment lien. No lien shall extend to public property subjected to special assessments.

The special assessment lien shall be paramount and superior to any other lien or encumbrance theretofore or thereafter created except a lien for general taxes.

**Sec. 23.** RCW 36.61.260 and 2000 c 184 s 6 are each amended to read as follows:

(1) Counties may issue lake or beach management district bonds in accordance with this section. Lake or beach management district bonds may be issued to obtain money sufficient to cover that portion of the special assessments that are not paid within the thirty-day period provided in RCW 36.61.190.

Whenever lake or beach management district bonds are proposed to be issued, the county legislative authority shall create a special fund or funds for the lake or beach management district from which all or a portion of the costs of the lake or beach improvement and maintenance activities shall be paid. Lake or beach management district bonds shall not be issued in excess of the costs and expenses of the lake or beach improvement and maintenance activities and shall not be issued prior to twenty days after the thirty days allowed for the payment of special assessments without interest or penalties.

Lake or beach management district bonds shall be exclusively payable from the special fund or funds and from a guaranty fund that the county may have created out of a portion of proceeds from the sale of the lake or beach management district bonds.

(2) Lake or beach management district bonds shall not constitute a general indebtedness of the county issuing the bond nor an obligation, general or special, of the state. The owner of any lake or beach management district bond shall not have any claim for the payment thereof against the county that issues the bonds except for payment from the special assessments made for the lake or beach improvement or maintenance activities for which the lake or beach management district bond was issued and from a lake or beach management district guaranty fund that may have been created. The county shall not be liable to the owner of any lake or beach management district bond for any loss to the lake or beach management district guaranty fund occurring in the lawful operation of the fund. The owner of a lake or beach management district bond shall not have any claim against the state arising from the lake or beach management district bond, special assessments, or guaranty fund. Tax revenues shall not be used to secure or guarantee the payment of the principal of or interest on lake or beach management district bonds.

The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a)

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Each lake or beach management district bond that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the lake or beach management district bonds.

(3) If the county fails to make any principal or interest payments on any lake or beach management district bond or to promptly collect any special assessment securing the bonds when due, the owner of the lake or beach management district bond may obtain a writ of mandamus from any court of competent jurisdiction requiring the county to collect the special assessments, foreclose on the related lien, and make payments out of the special fund or guaranty fund if one exists. Any number of owners of lake or beach management districts may join as plaintiffs.

(4) A county may create a lake or beach management district bond guaranty fund for each issue of lake or beach management district bonds. The guaranty fund shall only exist for the life of the lake or beach management district bonds with which it is associated. A portion of the bond proceeds may be placed into a guaranty fund. Unused moneys remaining in the guaranty fund during the last two years of the installments shall be used to proportionally reduce the required level of installments and shall be transferred into the special fund into which installment payments are placed.

(5) Lake or beach management district bonds shall be issued and sold in accordance with chapter 39.46 RCW. The authority to create a special fund or funds shall include the authority to create accounts within a fund.

**Sec. 24.** RCW 36.61.270 and 1987 c 432 s 11 are each amended to read as follows:

Whenever rates and charges are to be imposed in a lake or beach management district, the county legislative authority shall prepare a roll of rates and charges that includes those matters required to be included in a special assessment roll and shall hold a public hearing on the proposed roll of rates and charges as provided under RCW 36.61.120 through 36.61.150 for a special assessment roll. The county legislative authority shall have full jurisdiction and authority to fix, alter, regulate, and control the rates and charges imposed by a lake or beach management district and may classify the rates or charges by any reasonable factor or factors, including benefit, use, front footage, acreage, the extent of improvements on the property, the type of improvements on the property, uses to which the property is put, service to be provided, and any other reasonable factor or factors. The flexibility to establish rates and charges includes the authority to reduce rates and charges on property owned by low-income persons.

Except as provided in this section, the collection of rates and charges, lien status of unpaid rates and charges, and method of foreclosing on such liens shall be subject to the provisions of chapter 36.94 RCW. Public property, including state property, shall be subject to the rates and charges to the same extent that private property is subject to them, except that liens may not be foreclosed on the public property, and the procedure for imposing such rates and charges on state property shall conform with the procedure provided for in chapter 79.44 RCW concerning the imposition of special assessments upon state property. The total amount of rates and charges cannot exceed the cost of lake or beach improvement or maintenance activities proposed to be financed by such rates and charges, as specified in the resolution of intention. Revenue bonds exclusively payable from the rates and charges may be issued by the county under chapter 39.46 RCW.

**Sec. 25.** RCW 36.94.020 and 1997 c 447 s 11 are each amended to read as follows:

The construction, operation, and maintenance of a system of sewerage and/or water is a county purpose. Subject to the provisions of this chapter, every county has the power, individually or in conjunction with another county or counties to adopt, provide for, accept, establish, condemn, purchase, construct, add to, operate, and maintain a system or systems of sanitary and storm sewers, including outfalls, interceptors, plans, and facilities and services necessary for sewerage treatment and disposal, and/or system or systems of water supply within all or a portion of the county. However, counties shall not have power

to condemn sewerage and/or water systems of any municipal corporation or private utility.

Such county or counties shall have the authority to control, regulate, operate, and manage such system or systems and to provide funds therefor by general obligation bonds, revenue bonds, local improvement district bonds, utility local improvement district or local improvement district assessments, and in any other lawful fiscal manner. Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer.

Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

A county shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using county employees unless the on-site system is connected by a publicly owned collection system to the county's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of a state or local health officer to carry out their responsibilities under any other applicable law.

A county may, as part of a system of sewerage established under this chapter, provide for, finance, and operate any of the facilities and services and may exercise the powers expressly authorized for county storm water, flood control, pollution prevention, and drainage services and activities under chapters 36.89, 86.12, 86.13, and 86.15 RCW. A county also may provide for, finance, and operate the facilities and services and may exercise any of the powers authorized for aquifer protection areas under chapter 36.36 RCW; for lake or beach management districts under chapter 36.61 RCW; for diking districts, and diking, drainage, and sewerage improvement districts under chapters 85.05, 85.08, 85.15, 85.16, and 85.18 RCW; and for shellfish protection districts under chapter 90.72 RCW. However, if a county by reference to any of those statutes assumes as part of its system of sewerage any powers granted to such areas or districts and not otherwise available to a county under this chapter, then (1) the procedures and restrictions applicable to those areas or districts apply to the county's exercise of those powers, and (2) the county may not simultaneously impose rates and charges under this chapter and under the statutes authorizing such areas or districts for substantially the same facilities and services, but must instead impose uniform rates and charges consistent with RCW 36.94.140. By agreement with such an area or district that is not part of a county's system of sewerage, a county may operate that area's or district's services or facilities, but a county may not dissolve any existing area or district except in accordance with any applicable provisions of the statute under which that area or district was created.

**Sec. 26.** RCW 39.34.190 and 2003 c 327 s 2 are each amended to read as follows:

(1) The legislative authority of a city or county and the governing body of any special purpose district enumerated in subsection (2) of this section may authorize up to ten percent of its water-related revenues to be expended in the implementation of watershed management plan projects or activities that are in addition to the county's, city's, or district's existing water-related services or activities. Such limitation on expenditures shall not apply ~~((to additional revenues for watershed plan~~

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~~implementation that are authorized by voter approval under section 5 of this act or~~) to water-related revenues of a public utility district organized according to Title 54 RCW. Water-related revenues include rates, charges, and fees for the provision of services relating to water supply, treatment, distribution, and management generally, and those general revenues of the local government that are expended for water management purposes. A local government may not expend for this purpose any revenues that were authorized by voter approval for other specified purposes or that are specifically dedicated to the repayment of municipal bonds or other debt instruments.

(2) The following special purpose districts may exercise the authority provided by this section:

- (a) Water districts, sewer districts, and water-sewer districts organized under Title 57 RCW;
- (b) Public utility districts organized under Title 54 RCW;
- (c) Irrigation, reclamation, conservation, and similar districts organized under Titles 87 and 89 RCW;
- (d) Port districts organized under Title 53 RCW;
- (e) Diking, drainage, and similar districts organized under Title 85 RCW;
- (f) Flood control and similar districts organized under Title 86 RCW;
- (g) Lake or beach management districts organized under chapter 36.61 RCW;
- (h) Aquifer protection areas organized under chapter 36.36 RCW; and
- (i) Shellfish protection districts organized under chapter 90.72 RCW.

(3) The authority for expenditure of local government revenues provided by this section shall be applicable broadly to the implementation of watershed management plans addressing water supply, water transmission, water quality treatment or protection, or any other water-related purposes. Such plans include but are not limited to plans developed under the following authorities:

- (a) Watershed plans developed under chapter 90.82 RCW;
- (b) Salmon recovery plans developed under chapter 77.85 RCW;
- (c) Watershed management elements of comprehensive land use plans developed under the growth management act, chapter 36.70A RCW;
- (d) Watershed management elements of shoreline master programs developed under the shoreline management act, chapter 90.58 RCW;
- (e) Nonpoint pollution action plans developed under the Puget Sound water quality management planning authorities of chapter 90.71 RCW and chapter 400-12 WAC;
- (f) Other comprehensive management plans addressing watershed health at a WRIA level or sub-WRIA basin drainage level;
- (g) Coordinated water system plans under chapter 70.116 RCW and similar regional plans for water supply; and
- (h) Any combination of the foregoing plans in an integrated watershed management plan.

(4) The authority provided by this section to expend revenues for watershed management plan implementation shall be construed broadly to include, but not be limited to:

- (a) The coordination and oversight of plan implementation, including funding a watershed management partnership for this purpose;
- (b) Technical support, monitoring, and data collection and analysis;
- (c) The design, development, construction, and operation of projects included in the plan; and
- (d) Conducting activities and programs included as elements in the plan.

**Sec. 27.** RCW 86.09.151 and 1986 c 278 s 52 are each amended to read as follows:

(1) Said flood control districts shall have full authority to carry out the objects of their creation and to that end are authorized to acquire, purchase, hold, lease, manage, improve, repair, occupy, and sell real and personal property or any interest therein, either inside or outside the boundaries of the

district, to enter into and perform any and all necessary contracts, to appoint and employ the necessary officers, agents and employees, to sue and be sued, to exercise the right of eminent domain, to levy and enforce the collection of special assessments and in the manner herein provided against the lands within the district, for district revenues, and to do any and all lawful acts required and expedient to carry out the purpose of this chapter.

(2) In addition to the powers conferred in this chapter and those in chapter 85.38 RCW, flood control districts may engage in activities authorized under RCW 36.61.020 for lake or beach management districts using procedures granted in this chapter and in chapter 85.38 RCW.

**Sec. 28.** RCW 35.21.403 and 1985 c 398 s 27 are each amended to read as follows:

Any city or town may establish lake and beach management districts within its boundaries as provided in chapter 36.61 RCW. When a city or town establishes a lake or beach management district pursuant to chapter 36.61 RCW, the term "county legislative authority" shall be deemed to mean the city or town governing body, the term "county" shall be deemed to mean the city or town, and the term "county treasurer" shall be deemed to mean the city or town treasurer or other fiscal officer.

**NEW SECTION. Sec. 29.** A new section is added to chapter 43.21A RCW to read as follows:

(1) The department shall, within available funds, provide technical assistance to community groups and county and city legislative authorities requesting assistance with the development of beach management programs. The department shall work with the departments of fish and wildlife, natural resources, and the Puget Sound partnership in coordinating agency assistance to community groups and county and city legislative authorities.

(2) The department shall coordinate with relevant state agencies and marine resources committees established in the area of beach management districts to provide technical assistance to beach management districts.

(3) The department shall, within available funds, coordinate with relevant state agencies to provide technical assistance to beach management districts so that beach management districts are able to ensure that proposed beach improvement and maintenance plans and activities of these districts are consistent with applicable federal, state, and local laws, and federal, state, and local resource management plans including, but not limited to:

- (a) Shoreline master programs;
- (b) Development regulations adopted to protect critical areas;
- (c) State and federally identified habitat conservation plans and species recovery plans;
- (d) State marine species management plans; and
- (e) Shoreline and nearshore protection and restoration plans.

(4) The department, in consultation with the Puget Sound partnership, shall monitor and assess the results of the removal of native aquatic plants and vegetation in areas designated in section 2(4) of this act, and provide recommendations regarding areas for future designations.

**NEW SECTION. Sec. 30.** 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."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Water, Energy & Telecommunications to Engrossed Second Substitute House Bill No. 3186.

The motion by Senator Rockefeller carried and the committee 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 "districts;" strike the remainder of the title and insert "amending RCW 36.61.010, 36.61.020, 36.61.025, 36.61.030, 36.61.040, 36.61.050,



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36.61.060, 36.61.070, 36.61.080, 36.61.090, 36.61.100, 36.61.110, 36.61.115, 36.61.120, 36.61.140, 36.61.160, 36.61.170, 36.61.190, 36.61.200, 36.61.220, 36.61.230, 36.61.260, 36.61.270, 36.94.020, 39.34.190, 86.09.151, and 35.21.403; adding a new section to chapter 36.61 RCW; adding a new section to chapter 43.21A RCW; and creating a new section."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Second Substitute House Bill No. 3186 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Eide 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 Engrossed Second Substitute House Bill No. 3186 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3186 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

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

Voting nay: Senators Benton, Carrell, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Pflug, Roach, Schoesler, Stevens and Zarelli - 13

Excused: Senators Brown and Murray - 2

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3186 as amended by the Senate, 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

HOUSE BILL NO. 2730, by Representatives Rolfes, Appleton and Hudgins

Addressing the provision of ferry service by port districts.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 2730 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 2730.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2730 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brandland, Delvin, Eide,

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Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 41

Voting nay: Senators Benton, Carrell, Honeyford, Roach, Schoesler and Stevens - 6

Excused: Senators Brown and Murray - 2

HOUSE BILL NO. 2730, 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

SUBSTITUTE HOUSE BILL NO. 2778, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, Condotta, Chandler and Williams)

Modifying provisions concerning real estate licensure law.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2778 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles 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 House Bill No. 2778.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2778 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, 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, Swecker, Tom, Weinstein and Zarelli - 45

Voting nay: Senator Holmquist - 1

Absent: Senator Hobbs - 1

Excused: Senators Brown and Murray - 2

SUBSTITUTE HOUSE BILL NO. 2778, 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

SUBSTITUTE HOUSE BILL NO. 2858, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Morrell, Warnick, Campbell, Hurst, Newhouse, O'Brien, Green, Kelley and Conway)

Expanding metal property provisions.

The measure was read the second time.

#### MOTION

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Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.290.010 and 2007 c 377 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under RCW 19.290.030.

(2) "Commercial enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including but not limited to a telephone, commercial mobile radio services, cable, electric, water, natural gas, or other utility, or railroad; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one inch tubing, forty-two inches high with four-inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.

(4) "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys. "Nonferrous metal property" does not include precious metals.

(5) "Precious metals" means gold, silver, and platinum.

(6) "Private metal property" means catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

(7) "Record" means a paper, electronic, or other method of storing information.

~~((7))~~ (8) "Scrap metal business" means a scrap metal supplier, scrap metal recycling center, and scrap metal processor.

~~((8))~~ (9) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device, or shredding device for recycling.

~~((9))~~ (10) "Scrap metal recycling center" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the state.

~~((10))~~ (11) "Scrap metal supplier" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property or nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycling center or scrap metal processor and that does not maintain a fixed business location in the state.

~~((11))~~ (12) "Transaction" means a pledge, or the purchase of, or the trade of any item of private metal property or nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of private metal property or nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

Sec. 2. RCW 19.290.020 and 2007 c 377 s 2 are each amended to read as follows:

(1) At the time of a transaction, every scrap metal business doing business in this state shall produce wherever that business is conducted an accurate and legible record of each transaction involving private metal property or nonferrous metal property. This record must be written in the English language, documented on a standardized form or in electronic form, and contain the following information:

(a) The signature of the person with whom the transaction is made;

(b) The time, date, location, and value of the transaction;

(c) The name of the employee representing the scrap metal business in the transaction;

(d) The name, street address, and telephone number of the person with whom the transaction is made;

(e) The license plate number and state of issuance of the license plate on the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;

(f) A description of the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;

(g) The current driver's license number or other government-issued picture identification card number of the seller or a copy of the seller's government-issued picture identification card; and

(h) A description of the predominant types of private metal property or nonferrous metal property subject to the transaction, including the property's classification code as provided in the institute of scrap recycling industries scrap specifications circular, 2006, and weight, quantity, or volume.

(2) For every transaction that involves private metal property or nonferrous metal property, every scrap metal business doing business in the state shall require the person with whom a transaction is being made to sign a declaration. The declaration may be included as part of the transactional record required under subsection (1) of this section, or on a receipt for the transaction. The declaration must state substantially the following:

"I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

The declaration must be signed and dated by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

(3) The record and declaration required under this section must be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, and must be maintained wherever that business is conducted for one year following the date of the transaction.

Sec. 3. RCW 19.290.030 and 2007 c 377 s 3 are each amended to read as follows:

(1) No scrap metal business may enter into a transaction to purchase or receive private metal property or nonferrous metal property from any person who cannot produce at least one piece of current government-issued picture identification, including a valid driver's license or identification card issued by any state.

(2) No scrap metal business may purchase or receive private metal property or commercial metal property unless the seller: (a) Has a commercial account with the scrap metal business; (b) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or (c) can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

(3) No scrap metal business may enter into a transaction to purchase or receive metallic wire that was burned in whole or in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned.

(4) No transaction involving private metal property or nonferrous metal property valued at greater than thirty dollars may be made in cash or with any person who does not provide a

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street address under the requirements of RCW 19.290.020. For transactions valued at greater than thirty dollars, the person with whom the transaction is being made may only be paid by a nontransferable check, mailed by the scrap metal business to a street address provided under RCW 19.290.020, no earlier than ten days after the transaction was made. A transaction occurs on the date provided in the record required under RCW 19.290.020.

(5) No scrap metal business may purchase or receive beer kegs from anyone except a manufacturer of beer kegs or licensed brewery.

**Sec. 4.** RCW 19.290.040 and 2007 c 377 s 4 are each amended to read as follows:

(1) Every scrap metal business must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. That record, at a minimum, must include the following information:

(a) The full name of the commercial enterprise or commercial account;

(b) The business address and telephone number of the commercial enterprise or commercial account; and

(c) The full name of the person employed by the commercial enterprise who is authorized to deliver private metal property, nonferrous metal property, and commercial metal property to the scrap metal business.

(2) The record maintained by a scrap metal business for a commercial account must document every purchase or receipt of private metal property, nonferrous metal property, and commercial metal property from the commercial enterprise. The documentation must include, at a minimum, the following information:

(a) The time, date, and value of the property being purchased or received;

(b) A description of the predominant types of property being purchased or received; and

(c) The signature of the person delivering the property to the scrap metal business.

**Sec. 5.** RCW 19.290.050 and 2007 c 377 s 5 are each amended to read as follows:

(1) Upon request by any commissioned law enforcement officer of the state or any of its political subdivisions, every scrap metal business shall furnish a full, true, and correct transcript of the records from the purchase or receipt of private metal property, nonferrous metal property, and commercial metal property involving a specific individual, vehicle, or item of private metal property, nonferrous metal property, or commercial metal property. This information may be transmitted within a specified time of not less than two business days to the applicable law enforcement agency electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police or the county's chief law enforcement officer.

(2) If the scrap metal business has good cause to believe that any private metal property, nonferrous metal property, or commercial metal property in his or her possession has been previously lost or stolen, the scrap metal business shall promptly report that fact to the applicable commissioned law enforcement officer of the state, the chief of police, or the county's chief law enforcement officer, together with the name of the owner, if known, and the date when and the name of the person from whom it was received.

**Sec. 6.** RCW 19.290.060 and 2007 c 377 s 6 are each amended to read as follows:

(1) Following notification, either verbally or in writing, from a commissioned law enforcement officer of the state or any of its political subdivisions that an item of private metal property, nonferrous metal property, or commercial metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification upon the property. The scrap metal business shall hold the property for a period of time as directed

by the applicable law enforcement agency up to a maximum of ten business days.

(2) A commissioned law enforcement officer of the state or any of its political subdivisions shall not place on hold any item of private metal property, nonferrous metal property, or commercial metal property unless that law enforcement agency reasonably suspects that the property is a lost or stolen item. Any hold that is placed on the property must be removed within ten business days after the property on hold is determined not to be stolen or lost and the property must be returned to the owner or released.

**Sec. 7.** RCW 19.290.070 and 2007 c 377 s 7 are each amended to read as follows:

It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of private metal property, nonferrous metal property, or commercial metal property in order to deceive a scrap metal business;

(2) Any scrap metal business to enter into a transaction to purchase or receive any private metal property, nonferrous metal property, or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated;

(3) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(4) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property from any person under the age of eighteen years or any person who is discernibly under the influence of intoxicating liquor or drugs;

(5) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past ten years whether the person is acting in his or her own behalf or as the agent of another;

(6) Any person to sign the declaration required under RCW 19.290.020 knowing that the private metal property or nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under RCW 19.290.020 constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the private metal property or nonferrous metal property subject to the transaction was stolen;

(7) Any scrap metal business to possess private metal property or commercial metal property that was not lawfully purchased or received under the requirements of this chapter; or

(8) Any scrap metal business to engage in a series of transactions valued at less than thirty dollars with the same seller for the purposes of avoiding the requirements of RCW 19.290.030(4).

**Sec. 8.** RCW 19.290.090 and 2007 c 377 s 9 are each amended to read as follows:

The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) Metal and other materials from vehicles acquired by vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW, and acquired in accordance with those laws;

(3) Persons in the business of operating an automotive repair facility as defined under RCW 46.71.011; and

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(4) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

**Sec. 9.** RCW 9.94A.535 and 2007 c 377 s 10 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

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

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

**(1) Mitigating Circumstances - Court to Consider**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation

pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

**(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court**

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

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

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010."

MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon and others to the committee striking amendment be adopted.

On page 8, after line 5 of the amendment, strike all of section 8 and insert the following:

"Sec. 8. RCW 19.290.090 and 2007 c 377 s 9 are each amended to read as follows:

The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) ~~((Vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW;~~

~~—(3)))~~ Persons in the business of operating an automotive repair facility as defined under RCW 46.71.011; and

~~((4)))~~ (3) Persons in the business of buying or selling empty

food and beverage containers, including metal food and beverage containers."

Senator Sheldon spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon and others on page 8, after line 5 to the committee striking amendment to Substitute House Bill No. 2858.

The motion by Senator Sheldon carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to Substitute House Bill No. 2858.

The motion by Senator Kline carried and the committee striking amendment as amended 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 "provisions;" strike the remainder of the title and insert "amending RCW 19.290.010, 19.290.020, 19.290.030, 19.290.040, 19.290.050, 19.290.060, 19.290.070, 19.290.090, and 9.94A.535; and prescribing penalties."

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2858 as amended by the Senate 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 House Bill No. 2858 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2858 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Murray - 2

SUBSTITUTE HOUSE BILL NO. 2858 as amended by the Senate, 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

HOUSE BILL NO. 3097, by Representatives Quall, Barlow, Priest and Anderson

Specifying authority of the executive director of the state board of education.

The measure was read the second time.

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## MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 3097 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.

## MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

## MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 3097.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3097 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, 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, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 46

Excused: Senators Murray, Prentice and Zarelli - 3

HOUSE BILL NO. 3097, 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

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3012, by House Committee on Judiciary (originally sponsored by Representatives Ross, Lantz, Rodne and Williams)

Regarding estate distribution documents.

The measure was read the second time.

## MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 3012 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 Engrossed Substitute House Bill No. 3012.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3012 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; 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, Kline,

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Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 46

Absent: Senator Weinstein - 1

Excused: Senators Murray and Prentice - 2

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3012, 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, 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 March 4, 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 March 4, 2008.

## SECOND READING

HOUSE BILL NO. 1149, by Representatives O'Brien, Dunn, McCune, Wallace and Simpson

Eliminating advance property tax payments for binding site plans.

The measure was read the second time.

## MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 1149 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1149.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1149 and the bill passed the Senate 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, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Murray and Prentice - 2

HOUSE BILL NO. 1149, having received the constitutional

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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

SUBSTITUTE HOUSE BILL NO. 2496, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Williams, Condotta, Moeller, Chandler, Green, Hurst, Wood, McIntire, Kenney and Chase)

Enhancing the mobility of certified public accountants.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2496 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator 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 House Bill No. 2496.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2496 and the bill passed the Senate 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, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Murray and Prentice - 2

SUBSTITUTE HOUSE BILL NO. 2496, 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

HOUSE BILL NO. 3151, by Representatives Alexander, DeBolt, Hunt and McCune

Extending the commencement-of-construction date for a sales and use tax for public facilities districts in national disaster counties.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 3151 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3151.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3151 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,

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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, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 47

Voting nay: Senator Tom - 1

Excused: Senator Murray - 1

HOUSE BILL NO. 3151, 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

HOUSE BILL NO. 2781, by Representatives Wallace, Chase, Sells, Conway, Morrell, Haigh, Hankins and Santos

Enhancing Washington state history and government course requirements for high school graduation.

The measure was read the second time.

#### MOTION

Senator Rasmussen moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The study of the state's history and government is vital to providing a well-rounded education to students. It is important for students to have a firm understanding of where we have come from as a state and the institutions that guide and serve citizens of the state. It is equally important to provide students with context for the information that enables them to apply it to the present and future, with an understanding of Washington's place in our country and the broader global community.

The legislature finds that the current high school graduation requirements for coursework in Washington state history and government should be enhanced to ensure students understand the complex issues of today's world and Washington's place in the global community. It is therefore the intent of the legislature to modernize high school graduation requirements for coursework in Washington state history and government.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.230 RCW to read as follows:

Beginning with the 2009-10 school year, school districts shall ensure that any course in Washington state history and government offered to fulfill high school requirements includes, but is not limited to, the following content:

- (1) Commerce in Washington state and Washington's place in a global economy;
- (2) The Constitution of the state of Washington and Washington state politics. Educators are encouraged to incorporate instruction on the meaning and history of the pledge of allegiance into existing coursework on state politics. The superintendent of public instruction shall adopt rules to provide guidance for complying with this subsection;
- (3) Washington state geography; and
- (4) Washington state history and culture."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to House Bill No. 2781.

Senator Rasmussen spoke in favor of adoption of the committee striking amendment.

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

#### MOTION

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

On page 1, line 2 of the title, after "graduation;" strike the remainder of the title and insert "adding a new section to chapter 28A.230 RCW; and creating a new section."

## MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 2781 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2781 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2781 as amended by the Senate 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, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Murray - 1

HOUSE BILL NO. 2781 as amended by the Senate, 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

SUBSTITUTE HOUSE BILL NO. 2666, by House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Cody, McCoy, Green, Hunt, Wallace, Pedersen, Moeller, McIntire, Barlow, Conway, Simpson and Darneille)

Establishing standards for long-term care insurance.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The intent of this chapter is to promote the public interest, support the availability of long-term care coverage, establish standards for long-term care coverage, facilitate public understanding and comparison of long-term care contract benefits, protect persons insured under long-term care insurance policies and certificates, protect applicants for long-term care policies from unfair or deceptive sales or enrollment practices, and provide for flexibility and innovation in the development of long-term care insurance coverage.

**NEW SECTION. Sec. 2.** This chapter applies to all long-term care insurance policies, contracts, or riders delivered or issued for delivery in this state on or after January 1, 2009. This chapter does not supersede the obligations of entities subject to this chapter to comply with other applicable laws to the extent that they do not conflict with this chapter, except that laws and

regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance.

(1) Coverage advertised, marketed, or offered as long-term care insurance shall comply with the provisions of this chapter. Any coverage, policy, or rider advertised, marketed, or offered as long-term care or nursing home insurance shall comply with the provisions of this chapter.

(2) Individual and group long-term care contracts issued prior to January 1, 2009, remain governed by chapter 48.84 RCW and rules adopted thereunder.

(3) This chapter is not intended to prohibit approval of long-term care funded through life insurance.

**NEW SECTION. Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means: (a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and (b) in the case of a group long-term care insurance policy, the proposed certificate holder.

(2) "Certificate" includes any certificate issued under a group long-term care insurance policy that has been delivered or issued for delivery in this state.

(3) "Commissioner" means the insurance commissioner of Washington state.

(4) "Issuer" includes insurance companies, fraternal benefit societies, health care service contractors, health maintenance organizations, or other entity delivering or issuing for delivery any long-term care insurance policy, contract, or rider.

(5) "Long-term care insurance" means an insurance policy, contract, or rider that is advertised, marketed, offered, or designed to provide coverage for at least twelve consecutive months for a covered person. Long-term care insurance maybe on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. Long-term care insurance includes any policy, contract, or rider that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity.

(a) Long-term care insurance includes group and individual annuities and life insurance policies or riders that provide directly or supplement long-term care insurance. However, long-term care insurance does not include life insurance policies that: (i) Accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement; (ii) provide the option of a lump-sum payment for those benefits; and (iii) do not condition the benefits or the eligibility for the benefits upon the receipt of long-term care.

(b) Long-term care insurance also includes qualified long-term care insurance contracts.

(c) Long-term care insurance does not include any insurance policy, contract, or rider that is offered primarily to provide coverage for basic medicare supplement, basic hospital expense, basic medical-surgical expense, hospital confinement indemnity, major medical expense, disability income, related income, asset protection, accident only, specified disease, specified accident, or limited benefit health.

(6) "Group long-term care insurance" means a long-term care insurance policy or contract that is delivered or issued for delivery in this state and is issued to:

(a) One or more employers; one or more labor organizations; or a trust or the trustees of a fund established by one or more employers or labor organizations for current or former employees, current or former members of the labor organizations, or a combination of current and former employees or members, or a combination of such employers, labor organizations, trusts, or trustees; or

(b) A professional, trade, or occupational association for its members or former or retired members, if the association:

(i) Is composed of persons who are or were all actively engaged in the same profession, trade, or occupation; and



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(ii) Has been maintained in good faith for purposes other than obtaining insurance; or

(c)(i) An association, trust, or the trustees of a fund established, created, or maintained for the benefit of members of one or more associations. Before advertising, marketing, or offering long-term care coverage in this state, the association or associations, or the insurer of the association or associations, must file evidence with the commissioner that the association or associations have at the time of such filing at least one hundred persons who are members and that the association or associations have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws that provide that:

(A) The association or associations hold regular meetings at least annually to further the purposes of the members;

(B) Except for credit unions, the association or associations collect dues or solicit contributions from members; and

(C) The members have voting privileges and representation on the governing board and committees of the association.

(ii) Thirty days after filing the evidence in accordance with this section, the association or associations will be deemed to have satisfied the organizational requirements, unless the commissioner makes a finding that the association or associations do not satisfy those organizational requirements.

(d) A group other than as described in (a), (b), or (c) of this subsection subject to a finding by the commissioner that:

(i) The issuance of the group policy is not contrary to the best interest of the public;

(ii) The issuance of the group policy would result in economies of acquisition or administration; and

(iii) The benefits are reasonable in relation to the premiums charged.

(7) "Policy" includes a document such as an insurance policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, health care service contractor, health maintenance organization, or any similar entity authorized by the insurance commissioner to transact the business of long-term care insurance.

(8) "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract" means:

(a) An individual or group insurance contract that meets the requirements of section 7702B(b) of the internal revenue code of 1986, as amended; or

(b) The portion of a life insurance contract that provides long-term care insurance coverage by rider or as part of the contract and that satisfies the requirements of sections 7702B(b) and (e) of the internal revenue code of 1986, as amended.

**NEW SECTION. Sec. 4.** A group long-term care insurance policy may not be offered to a resident of this state under a group policy issued in another state to a group described in section 3(6)(d) of this act, unless this state or another state having statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state has made a determination that such requirements have been met.

**NEW SECTION. Sec. 5.** (1) A long-term care insurance policy or certificate may not define "preexisting condition" more restrictively than as a condition for which medical advice or treatment was recommended by or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person, unless the policy or certificate applies to group long-term care insurance under section 3(6)(a), (b), or (c) of this act.

(2) A long-term care insurance policy or certificate may not exclude coverage for a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within six months following the effective date of coverage of an insured person, unless the policy or certificate applies to a group as defined in section 3(6)(a) of this act.

(3) The commissioner may extend the limitation periods for specific age group categories in specific policy forms upon finding that the extension is in the best interest of the public.

(4) An issuer may use an application form designed to elicit the complete health history of an applicant and underwrite in accordance with that issuer's established underwriting standards, based on the answers on that application. Unless otherwise provided in the policy or certificate and regardless of whether it is disclosed on the application, a preexisting condition need not be covered until the waiting period expires.

(5) A long-term care insurance policy or certificate may not exclude or use waivers or riders to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period.

**NEW SECTION. Sec. 6.** No long-term care insurance policy may:

(1) Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;

(2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder;

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care;

(4) Condition eligibility for any benefits on a prior hospitalization requirement;

(5) Condition eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care;

(6) Condition eligibility for any benefits other than waiver of premium, postconfinement, postacute care, or recuperative benefits on a prior institutionalization requirement;

(7) Include a postconfinement, postacute care, or recuperative benefit unless:

(a) Such requirement is clearly labeled in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits;" and

(b) Such limitations or conditions specify any required number of days of preconfinement or postconfinement;

(8) Condition eligibility for noninstitutional benefits on the prior receipt of institutional care;

(9) A long-term care insurance policy or certificate may be field-issued if the compensation to the field issuer is not based on the number of policies or certificates issued. For purposes of this section, "field-issued" means a policy or certificate issued by a producer or a third-party administrator of the policy pursuant to the underwriting authority by an issuer and using the issuer's underwriting guidelines.

**NEW SECTION. Sec. 7.** (1) Long-term care insurance applicants may return a policy or certificate for any reason within thirty days after its delivery and to have the premium refunded.

(2) All long-term care insurance policies and certificates shall have a notice prominently printed on or attached to the first page of the policy stating that the applicant may return the policy or certificate within thirty days after its delivery and to have the premium refunded.

(3) Refunds or denials of applications must be made within thirty days of the return or denial.

(4) This section shall not apply to certificates issued pursuant to a policy issued to a group defined in section 3(6)(a) of this act.

**NEW SECTION. Sec. 8.** (1) An outline of coverage must be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means that prominently direct the attention of the recipient to the document and its purpose.

(a) The commissioner must prescribe a standard format, including style, arrangement, overall appearance, and the content of an outline of coverage.

(b) When an insurance producer makes a solicitation in person, he or she must deliver an outline of coverage before presenting an application or enrollment form.

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(c) In a direct response solicitation, the outline of coverage must be presented with an application or enrollment form.

(d) If a policy is issued to a group as defined in section 3(6)(a) of this act, an outline of coverage is not required to be delivered, if the information that the commissioner requires to be included in the outline of coverage is in other materials relating to enrollment. Upon request, any such materials must be made available to the commissioner.

(2) If an issuer approves an application for a long-term care insurance contract or certificate, the issuer must deliver the contract or certificate of insurance to the applicant within thirty days after the date of approval. A policy summary must be delivered with an individual life insurance policy that provides long-term care benefits within the policy or by rider. In a direct response solicitation, the issuer must deliver the policy summary, upon request, before delivery of the policy, if the applicant requests a summary.

(a) The policy summary shall include:

(i) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from any applicable death benefits;

(ii) An illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits if any, for each covered person;

(iii) Any exclusions, reductions, and limitations on benefits of long-term care;

(iv) A statement that any long-term care inflation protection option required by section 12 of this act is not available under this policy; and

(v) If applicable to the policy type, the summary must also include:

(A) A disclosure of the effects of exercising other rights under the policy;

(B) A disclosure of guarantees related to long-term care costs of insurance charges; and

(C) Current and projected maximum lifetime benefits.

(b) The provisions of the policy summary may be incorporated into a basic illustration required under chapter 48.23A RCW, or into the policy summary which is required under rules adopted by the commissioner.

**NEW SECTION. Sec. 9.** If a long-term care benefit funded through a life insurance policy by the acceleration of the death benefit is in benefit payment status, a monthly report must be provided to the policyholder. The report must include:

(1) A record of all long-term care benefits paid out during the month;

(2) An explanation of any changes in the policy resulting from paying the long-term care benefits, such as a change in the death benefit or cash values; and

(3) The amount of long-term care benefits that remain to be paid.

**NEW SECTION. Sec. 10.** All long-term care denials must be made within sixty days after receipt of a written request made by a policyholder or certificate holder, or his or her representative. All denials of long-term care claims by the issuer must provide a written explanation of the reasons for the denial and make available to the policyholder or certificate holder all information directly related to the denial.

**NEW SECTION. Sec. 11.** (1) An issuer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim if:

(a) A policy or certificate has been in force for less than six months and upon a showing of misrepresentation that is material to the acceptance for coverage; or

(b) A policy or certificate that has been in force for at least six months but less than two years, upon a showing of misrepresentation that is both material to the acceptance for coverage and that pertains to the condition for which benefits are sought.

(2) After a policy or certificate has been in force for two years it is not contestable upon the grounds of misrepresentation alone. Such a policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

(3) An issuer's payments for benefits under a long-term care insurance policy or certificate may not be recovered by the issuer if the policy or certificate is rescinded.

(4) This section does not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care that are governed by RCW 48.23.050 the state's life insurance incontestability clause. In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

**NEW SECTION. Sec. 12.** (1) The commissioner must establish minimum standards for inflation protection features.

(2) An issuer must comply with the rules adopted by the commissioner that establish minimum standards for inflation protection features.

**NEW SECTION. Sec. 13.** (1) Except as provided by this section, a long-term care insurance policy may not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate that includes a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. If a policyholder or certificate holder declines the nonforfeiture benefit, the issuer must provide a contingent benefit upon lapse that is available for a specified period of time following a substantial increase in premium rates.

(2) If a group long-term care insurance policy is issued, the offer required in subsection (1) of this section must be made to the group policyholder. However, if the policy is issued as group long-term care insurance as defined in section 3(6)(d) of this act other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

(3) The commissioner must adopt rules specifying the type or types of nonforfeiture benefits to be offered as part of long-term care insurance policies and certificates, the standards for nonforfeiture benefits, and the rules regarding contingent benefit upon lapse, including a determination of the specified period of time during which a contingent benefit upon lapse will be available and the substantial premium rate increase that triggers a contingent benefit upon lapse.

**NEW SECTION. Sec. 14.** A person may not sell, solicit, or negotiate long-term care insurance unless he or she is appropriately licensed as an insurance producer and has successfully completed long-term care coverage education that meets the requirements of this section.

(1) All long-term care education required by this chapter must meet the requirements of chapter 48.17 RCW and rules adopted by the commissioner.

(2)(a)(i) After January 1, 2009, prior to soliciting, selling, or negotiating long-term care insurance coverage, an insurance producer must successfully complete a one-time education course consisting of no fewer than eight hours on long-term care coverage, long-term care services, state and federal regulations and requirements for long-term care and qualified long-term care insurance coverage, changes or improvements in long-term care services or providers, alternatives to the purchase of long-term care insurance coverage, the effect of inflation on benefits and the importance of inflation protection, and consumer suitability standards and guidelines.

(ii) In order to continue soliciting, selling, or negotiating long-term care coverage in this state, all insurance producers selling, soliciting, or negotiating long-term care insurance coverage prior to the effective date of this act must successfully complete the eight-hour, one-time long-term care education and training course no later than July 1, 2009.

(b) In addition to the one-time education and training requirement set forth in (a) of this subsection, insurance producers who engage in the solicitation, sale, or negotiation of long-term care insurance coverage must successfully complete no fewer than four hours every twenty-four months of continuing education specific to long-term care insurance coverage and issues. Long-term care insurance coverage continuing education shall consist of topics related to long-term care insurance, long-term care services, and, if applicable, qualified state long-term care insurance partnership programs, including, but not limited to, the following:

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(i) State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including medicaid;

(ii) Available long-term care services and providers;

(iii) Changes or improvements in long-term care services or providers;

(iv) Alternatives to the purchase of private long-term care insurance;

(v) The effect of inflation on benefits and the importance of inflation protection;

(vi) This chapter and chapters 48.84 and 48.85 RCW; and

(vii) Consumer suitability standards and guidelines.

(3) The insurance producer education required by this section shall not include training that is issuer or company product-specific or that includes any sales or marketing information, materials, or training, other than those required by state or federal law.

(4) Issuers shall obtain verification that an insurance producer receives training required by this section before that producer is permitted to sell, solicit, or otherwise negotiate the issuer's long-term care insurance products.

(5) Issuers shall maintain records subject to the state's record retention requirements and shall make evidence of that verification available to the commissioner upon request.

(6)(a) Issuers shall maintain records with respect to the training of its producers concerning the distribution of its long-term care partnership policies that will allow the commissioner to provide assurance to the state department of social and health services, medicaid division, that insurance producers engaged in the sale of long-term care insurance contracts have received the training required by this section and any rules adopted by the commissioner, and that producers have demonstrated an understanding of the partnership policies and their relationship to public and private coverage of long-term care, including medicaid, in this state.

(b) These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the commissioner upon request.

(7) The satisfaction of these training requirements for any state shall be deemed to satisfy the training requirements of this state.

**NEW SECTION. Sec. 15.** Issuers and their agents, if any, must determine whether issuing long-term care insurance coverage to a particular person is appropriate, except in the case of a life insurance policy that accelerates benefits for long-term care.

(1) An issuer must:

(a) Develop and use suitability standards to determine whether the purchase or replacement of long-term care coverage is appropriate for the needs of the applicant or insured;

(b) Train its agents in the use of the issuer's suitability standards; and

(c) Maintain a copy of its suitability standards and make the standards available for inspection, upon request.

(2) The following must be considered when determining whether the applicant meets the issuer's suitability standards:

(a) The ability of the applicant to pay for the proposed coverage and any other relevant financial information related to the purchase of or payment for coverage;

(b) The applicant's goals and needs with respect to long-term care and the advantages and disadvantages of long-term care coverage to meet those goals or needs; and

(c) The values, benefits, and costs of the applicant's existing health or long-term care coverage, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(3) The sale or transfer of any suitability information provided to the issuer or agent by the applicant to any other person or business entity is prohibited.

(4)(a) The commissioner shall adopt, by rule, forms of consumer-friendly personal worksheets that issuers and their agents must use for applications for long-term care coverage.

(b) The commissioner may require each issuer to file its current forms of suitability standards and personal worksheets with the commissioner.

**NEW SECTION. Sec. 16.** A person engaged in the issuance or solicitation of long-term care coverage shall not engage in unfair methods of competition or unfair or deceptive acts or practices, as such methods, acts, or practices are defined in chapter 48.30 RCW, or as defined by the commissioner.

**NEW SECTION. Sec. 17.** An issuer or an insurance producer who violates a law or rule relating to the regulation of long-term care insurance or its marketing shall be subject to a fine of up to three times the amount of the commission paid for each policy involved in the violation or up to ten thousand dollars, whichever is greater.

**NEW SECTION. Sec. 18.** (1) The commissioner must adopt rules that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms. The commissioner must adopt rules establishing loss ratio standards for long-term care insurance policies. The commissioner must adopt rules to promote premium adequacy and to protect policyholders in the event of proposed substantial rate increases, and to establish minimum standards for producer education, marketing practices, producer compensation, producer testing, penalties, and reporting practices for long-term care insurance.

(2) The commissioner shall adopt rules establishing standards protecting patient privacy rights, rights to receive confidential health care services, and standards for an issuer's timely review of a claim denial upon request of a covered person.

(3) The commissioner may adopt reasonable rules to effectuate any provision of this chapter in accordance with the requirements of chapter 34.05 RCW.

**Sec. 19.** RCW 48.84.010 and 1986 c 170 s 1 are each amended to read as follows:

This chapter may be known and cited as the "long-term care insurance act" and is intended to govern the content and sale of long-term care insurance and long-term care benefit contracts issued before January 1, 2009, as defined in this chapter. This chapter shall be liberally construed to promote the public interest in protecting purchasers of long-term care insurance from unfair or deceptive sales, marketing, and advertising practices. The provisions of this chapter shall apply in addition to other requirements of Title 48 RCW.

**Sec. 20.** RCW 48.43.005 and 2007 c 296 s 1 and 2007 c 259 s 32 are each reenacted and amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(4) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(5) "Catastrophic health plan" means:

(a) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of

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at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(b) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least six thousand dollars, both amounts to be adjusted annually by the insurance commissioner; or

(c) Any health benefit plan that provides benefits for hospital inpatient and outpatient services, professional and prescription drugs provided in conjunction with such hospital inpatient and outpatient services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. The adjusted amount shall apply on the following January 1st.

(6) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(7) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(8) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(9) "Dependent" means, at a minimum, the enrollee's legal spouse and unmarried dependent children who qualify for coverage under the enrollee's health benefit plan.

(10) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor, if the self-employed individual, sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not work less than thirty hours per week and derives at least seventy-five percent of his or her income from a trade or business through which he or she has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form. Persons covered under a health benefit plan pursuant to the consolidated omnibus budget reconciliation act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements of chapter 265, Laws of 1995.

(11) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(12) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(13) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(14) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) service delivery issues other than denial of payment for medical

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services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(15) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(16) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(17) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(18) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(19) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 ((RCW)) or 48.-- RCW (sections 1 through 18 of this act);

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage; and

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(20) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(22) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any

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"membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(23) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(24) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed at least two but no more than fifty eligible employees, with a normal work week of thirty or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor must derive at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year except for a self-employed individual or sole proprietor in an agricultural trade or business, who must derive at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year. A self-employed individual or sole proprietor who is covered as a group of one on the day prior to June 10, 2004, shall also be considered a "small employer" to the extent that individual or group of one is entitled to have his or her coverage renewed as provided in RCW 48.43.035(6).

(25) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(26) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

**Sec. 21.** RCW 48.85.010 and 1995 1st sp.s. c 18 s 76 are each amended to read as follows:

The department of social and health services shall, in conjunction with the office of the insurance commissioner, coordinate a long-term care insurance program entitled the Washington long-term care partnership, whereby private insurance and medicaid funds shall be used to finance long-term care. For individuals purchasing a long-term care insurance policy or contract governed by chapter 48.84 ((RCW)) or 48.--RCW (sections 1 through 18 of this act) and meeting the criteria prescribed in this chapter, and any other terms as specified by the office of the insurance commissioner and the department of social and health services, this program shall allow for the exclusion of some or all of the individual's assets in determination of medicaid eligibility as approved by the federal health care financing administration.

**NEW SECTION. Sec. 22.** Sections 1 through 18 of this act constitute a new chapter in Title 48 RCW.

**NEW SECTION. Sec. 23.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 24.** This act takes effect January 1, 2009."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2666.

The motion by Senator Keiser carried and the committee 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 "insurance;" strike the remainder of the title and insert "amending RCW 48.84.010 and 48.85.010; reenacting and amending RCW 48.43.005; adding a new chapter to Title 48 RCW; prescribing penalties; and providing an effective date."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2666 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2666 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2666 as amended by the Senate 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, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Murray - 1

SUBSTITUTE HOUSE BILL NO. 2666 as amended by the Senate, 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

HOUSE BILL NO. 3088, by Representatives Cody, Hinkle and Schual-Berke

Limiting the scope of chapter 18.260 RCW over certain dental assistant and education and training programs.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be

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adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.260.110 and 2007 c 269 s 11 are each amended to read as follows:

Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice of a dental assistant in the discharge of official duties by dental assistants in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs; ((or))

(2) Expanded function dental auxiliary education and training programs approved by the commission and the practice as an expanded function dental auxiliary by students in expanded function dental auxiliary education and training programs approved by the commission, when acting under the direction and supervision of persons licensed under chapter 18.29 or 18.32 RCW;

(3) Dental assistant education and training programs, and the practice of dental assisting by students in dental assistant education and training programs approved by the commission or offered at a school approved or licensed by the workforce training and education coordinating board, higher education coordinating board, state board for community and technical colleges, or Washington state skill centers certified by the office of the superintendent of public instruction, when acting under the direction and supervision of persons registered or licensed under this chapter or chapter 18.29 or 18.32 RCW; or

(4) The practice of a volunteer dental assistant providing services under the supervision of a licensed dentist in a charitable dental clinic, as approved by the commission in rule."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to House Bill No. 3088.

The motion by Senator Keiser carried and the committee 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 "programs;" strike the remainder of the title and insert "and amending RCW 18.260.110."

#### MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 3088 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 3088 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3088 as amended by the Senate 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, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens,

Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Murray - 1

HOUSE BILL NO. 3088 as amended by the Senate, 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

HOUSE BILL NO. 2923, by Representatives Hinkle, Warnick, Blake, Chandler, Hailey, Schmick, Kretz, Williams, Eickmeyer, Condotta, McCune, VanDeWege and Newhouse

Providing an alternative method for weight tickets for transporting hay or straw.

The measure was read the second time.

#### MOTION

On motion of Senator Rasmussen, the rules were suspended, House Bill No. 2923 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rasmussen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2923.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2923 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, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Kline - 1

Excused: Senator Murray - 1

HOUSE BILL NO. 2923, 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

THIRD SUBSTITUTE HOUSE BILL NO. 1741, by House Committee on Appropriations Subcommittee on General Government & Audit Review (originally sponsored by Representatives Hunt, Skinner and Conway)

Transferring the oral history program from the secretary of state to the legislature.

The measure was read the second time.

#### MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** Washington has developed an impressive oral history program of recording and documenting the recollections of public officials and citizens who have contributed to the rich political history surrounding the legislature. Schools, museums, historians, state agencies, and

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interested citizens have benefited from the availability of these educational materials. The purpose of this act is to enhance this resource by reinforcing the decision-making role of the legislature.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.52 RCW to read as follows:

This chapter does not prohibit the secretary of the senate, the chief clerk of the house of representatives, or their designee from soliciting and accepting contributions to the legislative oral history account created in section 8 of this act.

**Sec. 3.** RCW 43.07.220 and 1991 c 237 s 1 are each amended to read as follows:

(1) The secretary of ~~((state))~~ the senate and the chief clerk of the house of representatives, at the direction of the legislative oral history ~~(advisory)~~ committee, shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state legislature, ~~((current and former state government officials and personnel))~~ and other citizens who have participated in the political history of the Washington state legislature. The secretary of ~~((state shall))~~ the senate and the chief clerk of the house of representatives may contract with independent oral historians ~~((and through))~~ or the history departments of the state universities to interview and record oral histories. The ~~((tapes and tape transcripts))~~ manuscripts and publications shall be ~~((indexed and))~~ made available for research and reference through the state archives. The ~~((transcripts))~~ manuscripts, together with current and historical photographs, may be published for distribution to libraries and ~~((for sale to))~~ the general public, and posted on the legislative oral history web site.

(2) The oral history of a person who occupied positions, or was staff to a person who occupied positions, in more than one branch of government, shall be conducted by the entity authorized to conduct oral histories of persons in the position last held by the person who is the subject of the oral history. However, the person being interviewed may select the entity he or she wishes to prepare his or her oral history.

**Sec. 4.** RCW 43.07.230 and 1991 c 237 s 2 are each amended to read as follows:

~~((An))~~ (1) A legislative oral history ~~(advisory)~~ committee is created, which shall consist of the following individuals:

~~((+))~~ (a) Four members of the house of representatives, two from each of the two largest caucuses of the house, appointed by the speaker of the house of representatives;

~~((2))~~ (b) Four members of the senate, two from each of the two largest caucuses of the senate, appointed by the president of the senate;

~~((3))~~ (c) The chief clerk of the house of representatives; and

~~((4))~~ (d) The secretary of the senate ~~((and~~  
~~((5) The secretary of state)).~~

(2) Ex officio members may be appointed by a majority vote of the committee's members appointed under subsection (1) of this section.

(3) The chair of the committee shall be elected by a majority vote of the committee members appointed under subsection (1) of this section.

**Sec. 5.** RCW 43.07.240 and 1991 c 237 s 3 are each amended to read as follows:

The legislative oral history ~~(advisory)~~ committee shall have the following responsibilities:

(1) To select appropriate oral history interview candidates and subjects;

(2) To select transcripts or portions of transcripts, and related historical material, for publication;

(3) To advise the secretary of ~~((state))~~ the senate and the chief clerk of the house of representatives on the format and length of individual interview series and on appropriate issues and subjects for related series of interviews;

(4) To advise the secretary of ~~((state))~~ the senate and the chief clerk of the house of representatives on the appropriate subjects, format, and length of interviews and on the process for conducting oral history interviews ~~((with subjects currently serving in the Washington state legislature));~~

(5) To advise the secretary of ~~((state))~~ the senate and the chief clerk of the house of representatives on joint programs and activities with state universities, colleges, museums, and other groups conducting oral histories; and

(6) To advise the secretary of ~~((state))~~ the senate and the chief clerk of the house of representatives on other aspects of the administration of the oral history program and on the conduct of individual interview projects.

**NEW SECTION. Sec. 6.** A new section is added to chapter 44.04 RCW to read as follows:

The secretary of the senate and the chief clerk of the house of representatives may fund oral history activities through donations as provided in section 7 of this act and through funds in the legislative gift center account created in RCW 44.73.020. The activities may include, but not be limited to, conducting interviews, preparing and indexing transcripts, publishing manuscripts and photographs, and presenting displays and programs. Donations that do not meet the criteria of the legislative oral history program may not be accepted. The secretary of the senate and the chief clerk of the house of representatives shall adopt joint rules necessary to implement this section.

**NEW SECTION. Sec. 7.** A new section is added to chapter 44.04 RCW to read as follows:

(1) The secretary of the senate and the chief clerk of the house of representatives may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms.

(2) Moneys received under this section may be used only for conducting oral histories.

(3) Moneys received under this section must be deposited in the legislative oral history account established in section 8 of this act.

(4) The secretary of the senate and the chief clerk of the house of representatives shall adopt joint rules to govern and protect the receipt and expenditure of the proceeds.

**NEW SECTION. Sec. 8.** A new section is added to chapter 44.04 RCW to read as follows:

The legislative oral history account is created in the custody of the state treasurer. All moneys received under section 7 of this act and from the legislative gift center account created in RCW 44.73.020 must be deposited in the account. Expenditures from the account may be made only for the purposes of the legislative oral history program under RCW 43.07.220 (as recodified by this act). Only the secretary of the senate or the chief clerk of the house of representatives or their designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW.

**NEW SECTION. Sec. 9.** (1) All powers, duties, and functions of the secretary of state pertaining to the legislative oral history program are transferred to the secretary of the senate and the chief clerk of the house of representatives. All references to the secretary of state or the office of the secretary of state in the Revised Code of Washington shall be construed to mean the secretary of the senate and the chief clerk of the house of representatives when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the secretary of state pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the secretary of the senate and the chief clerk of the house of representatives. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the secretary of the senate and the chief clerk of the house of representatives.

(b) Any appropriations made to the secretary of state for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the secretary of the senate and the chief clerk of the house of representatives.

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(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the secretary of state pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the secretary of the senate and the chief clerk of the house of representatives. All existing contracts and obligations shall remain in full force and shall be performed by the secretary of the senate and the chief clerk of the house of representatives.

(4) The transfer of the powers, duties, functions, and personnel of the secretary of state shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

(7) The secretary of the senate and the chief clerk of the house of representatives will determine location and staff reporting for the program.

**NEW SECTION. Sec. 10.** A new section is added to chapter 43.07 RCW to read as follows:

(1) The secretary of state shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state executive and judicial branches, the state's congressional delegation, and other citizens who have participated in the political history of Washington state. The program shall be called the Washington state legacy project. The secretary of state may contract with independent oral historians or history departments of the state universities to interview and record oral histories. The manuscripts and publications shall be made available for research and reference through the state archives. The transcripts, together with current and historical photographs, may be published for distribution to libraries and the general public, and be posted on the secretary of state's web site.

(2) The Washington state legacy project may act as a principal repository for oral histories related to community, family, and other various projects.

(3) The oral history of a person who occupied positions, or was staff to a person who occupied positions, in more than one branch of government shall be conducted by the entity authorized to conduct oral histories of persons in the position last held by the person who is the subject of the oral history. However, the person being interviewed may select the entity he or she wishes to prepare his or her oral history.

(4) The secretary of state may create a Washington state legacy project advisory council to provide advice and guidance on matters pertaining to operating the legacy project. The secretary of state may not compensate members of the legacy project advisory council but may provide reimbursement to members for expenses that are incurred in the conduct of their official duties.

**Sec. 11.** RCW 43.07.365 and 2002 c 358 s 3 are each amended to read as follows:

The secretary of state may fund ~~((oral history))~~ Washington state legacy project activities through donations as provided in RCW 43.07.037. The activities may include, but not be limited to, conducting interviews, preparing and indexing transcripts, publishing transcripts and photographs, and presenting displays and programs. Donations that do not meet the criteria of the ~~((oral history program))~~ Washington state legacy project may

not be accepted. The secretary of state shall adopt rules necessary to implement this section.

**Sec. 12.** RCW 43.07.370 and 2007 c 523 s 3 are each amended to read as follows:

(1) The secretary of state may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms.

(2) Moneys received under this section may be used only for the following purposes:

(a) Conducting ~~((oral histories))~~ the Washington state legacy project;

(b) Archival activities;

(c) Washington state library activities; and

(d) Development, construction, and operation of the Washington state heritage center.

(3)(a) Moneys received under subsection (2)(a) through (c) of this section must be deposited in the ~~((oral history))~~ Washington state legacy project, state library, and archives account established in RCW 43.07.380.

(b) Moneys received under subsection (2)(d) of this section must be deposited in the Washington state heritage center account created in RCW 43.07.129.

(4) The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds.

**Sec. 13.** RCW 43.07.380 and 2003 c 164 s 2 are each amended to read as follows:

The ~~((oral history))~~ Washington state legacy project, state library, and archives account is created in the custody of the state treasurer. All moneys received under RCW 43.07.370 must be deposited in the account. Expenditures from the account may be made only for the purposes of the ~~((oral history program under RCW 43.07.220))~~ Washington state legacy project under section 10 of this act, archives program under RCW 40.14.020, and the state library program under chapter 27.04 RCW. Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW.

**Sec. 14.** RCW 42.52.802 and 2003 c 164 s 4 are each amended to read as follows:

This chapter does not prohibit the secretary of state or a designee from soliciting and accepting contributions to the ~~((oral history))~~ Washington state legacy project, state library, and archives account created in RCW 43.07.380.

**NEW SECTION. Sec. 15.** The following are each recodified as sections in chapter 44.04 RCW:

RCW 43.07.220

RCW 43.07.230

RCW 43.07.240

**NEW SECTION. Sec. 16.** 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."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to Third Substitute House Bill No. 1741.

The motion by Senator Fairley carried and the committee 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 "program;" strike the remainder of the title and insert "amending RCW 43.07.220, 43.07.230, 43.07.240, 43.07.365, 43.07.370, 43.07.380, and 42.52.802; adding a new section to chapter 42.52 RCW; adding new sections to chapter 44.04 RCW; adding a new section to chapter 43.07 RCW; creating new sections; and recodifying RCW 43.07.220, 43.07.230, and 43.07.240."



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## MOTION

On motion of Senator Fairley, the rules were suspended, Third Substitute House Bill No. 1741 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

Senator Roach spoke against passage of the bill.

## MOTION

On motion of Senator Regala, Senators Kline and Rockefeller were excused.

The President declared the question before the Senate to be the final passage of Third Substitute House Bill No. 1741 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Third Substitute House Bill No. 1741 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 33; Nays, 14; Absent, 0; Excused, 2.

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

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Roach, Schoesler, Stevens, Swecker and Zarelli - 14

Excused: Senators Kline and Murray - 2

THIRD SUBSTITUTE HOUSE BILL NO. 1741 as amended by the Senate, 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

HOUSE BILL NO. 1923, by Representatives Hunt and Condotta

Modifying requirements for motor vehicle transporter license applications.

The measure was read the second time.

## MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1923 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

## MOTION

On motion of Senator Regala, Senators Rockefeller and Shin were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1923.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1923 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, Haugen, 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, Schoesler, Sheldon, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Kline, Murray, Rockefeller and Shin - 4

HOUSE BILL NO. 1923, 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

SUBSTITUTE HOUSE BILL NO. 3206, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Haler, Rolfe and Santos)

Concerning the information required to be reported in the annual economic impact report on lodging tax revenues.

The measure was read the second time.

## MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 3206 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3206.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3206 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, 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, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Kline, Murray and Shin - 3

SUBSTITUTE HOUSE BILL NO. 3206, 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 4:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 5:21 p.m. by President Owen.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1421, by House Committee on State Government & Tribal Affairs (originally

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sponsored by Representatives Green, Miloscia, Kretz, Armstrong, Appleton, Kessler, Ormsby, Warnick and Moeller)

Modifying address confidentiality program provisions.

The measure was read the second time.

#### MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 1421 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1421.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1421 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1421, 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

SECOND SUBSTITUTE HOUSE BILL NO. 3104, by House Committee on Finance (originally sponsored by Representatives Pedersen, Hankins, Moeller, Walsh, Linville, Takko, Upthegrove, Kessler, Jarrett, Ericks, Wallace, Grant, Eickmeyer, Quall, Clibbom, Dunshee, Lantz, Sullivan, Simpson, Blake, Hunter, Roberts, Rolfes, Williams, Sells, Schual-Berke, Springer, Eddy, Hunt, Hudgins, Santos, Cody, Seaquist, Fromhold, Nelson, McIntire, Chase, Hasegawa, Appleton, Darneille, Haigh, Sommers, Dickerson, Kirby, Wood, Flannigan, Conway, Goodman, Kenney, Kagi, Ormsby, Loomis, McCoy, Barlow, O'Brien, Pettigrew, Morris, Liias and VanDeWege)

Expanding rights and responsibilities for domestic partnerships.

The measure was read the second time.

#### MOTION

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

Beginning on page 146, line 13, strike all material through "43.07.130." on page 149, line 5, and insert the following:

"A domestic partnership may be terminated by filing a petition for dissolution in superior court."

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 195, after line 23, insert the following:

"NEW SECTION. **Sec. 1307.** RCW 26.60.050 (Termination--Records--Fees) and 2007 c 156 s 6 are each repealed."

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On page 2, line 2 of the title, after "11.114.010," strike "26.60.050,"

On page 2, line 12 of the title, after "sections;" insert "repealing RCW 26.60.050;"

Senator Swecker spoke in favor of adoption of the amendment.

Senator Weinstein spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker and others on page 146, line 13 to Second Substitute House Bill No. 3104.

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

#### MOTION

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

On page 195, after line 23, insert the following:

"NEW SECTION. **Sec. 1307.** The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

On page 2, line 12 of the title, after "dates;" strike "and" and on line 13 of the title after "date" insert "; and providing for submission of this act to a vote of the people"

Senator Swecker spoke in favor of adoption of the amendment.

Senator Murray spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker and others on page 195, after line 23 to Second Substitute House Bill No. 3104.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Swecker and others and the amendment was not adopted by the following vote: Yeas, 20; Nays, 29; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hargrove, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Rasmussen, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 20

Voting nay: 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, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 29

#### MOTION

On motion of Senator Fairley, the rules were suspended, Second Substitute House Bill No. 3104 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Swecker spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 3104.

#### ROLL CALL

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The Secretary called the roll on the final passage of Second Substitute House Bill No. 3104 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Regala, Rockefeller, Spanel, Tom and Weinstein - 29

Voting nay: Senators Benton, Carrell, Delvin, Hargrove, Hatfield, Hewitt, Holmquist, Honeyford, Kastama, McCaslin, Morton, Parlette, Rasmussen, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli - 20

SECOND SUBSTITUTE HOUSE BILL NO. 3104, 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

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2438, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Kretz, Williams, Blake, McCune, Newhouse, Takko, Chandler, Condotta, Armstrong, Dunn, McDonald, Warnick and Pearson)

Making permanent a pilot project that allows for the use of dogs to hunt cougars. Revised for 1st Substitute: Making permanent a pilot project that allows for the use of dogs to hunt cougars. (REVISED FOR ENGROSSED: Extending a pilot project that allows for the use of dogs to hunt cougars.)

The measure was read the second time.

#### MOTION

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

On page 2, line 5, after "(a)" strike "Designed to protect public safety or property" and insert "~~((Designed to protect public safety or property))~~ In response to documented depredation, public safety, or property protection complaints verified as cougar-related by the department of fish and wildlife prior to lethal removal"

Senator Tom spoke in favor of adoption of the amendment.

Senators Morton and Hargrove spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom and others on page 2, line 5 to Engrossed Substitute House Bill No. 2438.

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

#### MOTION

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

On page 2, line 9, after "(d)" strike all material through "wildlife" on line 13 and insert "~~((Consistent with any applicable recommendations emerging from research on cougar population dynamics in a multiprey environment conducted by Washington State University's department of natural resource sciences that was funded in whole or in part by the department of fish and wildlife))~~ This section shall not prohibit the lawful trapping or killing of wildlife causing damage in emergency situations allowed pursuant to RCW 77.36.030"

Senator Fairley spoke in favor of adoption of the amendment.

Senators Jacobsen and Morton spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 2, line 9 to Engrossed Substitute House Bill No. 2438.

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

#### MOTION

Senator Tom moved that the following amendment by Senators Tom and Fairley be adopted.

On page 2, after line 25, insert the following:

"(4) The department of fish and wildlife shall not authorize any additional seasons pursuant to subsection (3) of this section in which cougars may be pursued or killed with the aid of dogs until the fish and wildlife commission approves a report submitted by the department that has been peer-reviewed and demonstrates a reduction in human-cougar interactions as a direct result of hunting cougars with the aid of dogs."

Senator Tom spoke in favor of adoption of the amendment.

Senators Morton and Jacobsen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Tom and Fairley on page 2, after line 25 to Engrossed Substitute House Bill No. 2438.

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

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Engrossed Substitute House Bill No. 2438 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2438.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2438 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, King, Marr, McAuliffe, McCaslin, Morton, Parlette, Pflug, Pridemore, Rasmussen, Roach, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Zarelli - 31

Voting nay: Senators Brown, Eide, Fairley, Franklin, Fraser, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McDermott, Murray, Oemig, Prentice, Regala, Rockefeller, Tom and Weinstein - 18

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2438, 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.

#### STATEMENT FOR THE JOURNAL

During the House Bill No. 2438 debate, I was working on the education budget and inadvertently voted for 2438. Even had I voted no, it would not have changed the outcome. I will state for the record that I did not support this bill and had actively opposed it during session.

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SENATOR ROSEMARY MCAULIFFE, 1<sup>st</sup> Legislative District

## MOTION

At 6:09 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Wednesday, March 5, 2008.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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	Second Reading .....	9
	Third Reading Final Passage .....	10
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1421-S	Second Reading .....	34
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1923	Second Reading .....	33
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2427-S	Second Reading .....	5
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2438-S	Second Reading .....	35
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2496-S	Second Reading .....	23
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2602-S	Other Action .....	5
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2666-S	Other Action .....	29
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2714-S2	Other Action .....	9
	Second Reading .....	9
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2730	Second Reading .....	17
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2778-S	Second Reading .....	17
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2781	Other Action .....	23
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2858-S	Other Action .....	21

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Third Reading Final Passage . . . . .	21
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