

TWELFTH DAY, JANUARY 25, 2008

2008 REGULAR SESSION

## TWELFTH DAY

## MORNING SESSION

Senate Chamber, Olympia, Friday, January 25, 2008

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Hannah Besso and Adrian Rosales, presented the Colors. Pastor Sandra Kreis of St. Christopher's Community Church offered the prayer.

## MOTION

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

## MOTION

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

## REPORTS OF STANDING COMMITTEES

January 24, 2008

ESB 5261 Prime Sponsor, Senator Keiser: Granting the insurance commissioner the authority to review individual health benefit plan rates. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5261 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley; Kastama; Kohl-Welles and Marr.

MINORITY recommendation: Do not pass. Signed by Senators Pflug; Carrell and Parlette.

Passed to Committee on Rules for second reading.

January 23, 2008

SB 6184 Prime Sponsor, Senator Benton: Addressing most serious offenses. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6184 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin; Carrell; Hargrove; McDermott; Roach and Weinstein.

Passed to Committee on Rules for second reading.

January 23, 2008

SB 6217 Prime Sponsor, Senator Hatfield: Regarding fees allowed as court costs in district courts. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6217 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin; Hargrove; McDermott and Weinstein.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

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

Passed to Committee on Rules for second reading.

January 23, 2008

SB 6220 Prime Sponsor, Senator Keiser: Allowing the delegation of nursing tasks to care for persons with diabetes. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6220 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Carrell; Fairley; Kastama; Kohl-Welles; Marr and Parlette.

Passed to Committee on Ways & Means.

January 23, 2008

SB 6222 Prime Sponsor, Senator Keiser: Expanding programs for persons needing long-term care. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6222 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Carrell; Fairley; Kastama; Kohl-Welles; Marr and Parlette.

Passed to Committee on Ways & Means.

January 23, 2008

SB 6223 Prime Sponsor, Senator Keiser: Authorizing emergency medical technicians to administer glucagon in emergency situations. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Carrell; Fairley; Kastama; Kohl-Welles; Marr and Parlette.

Passed to Committee on Rules for second reading.

January 24, 2008

SB 6230 Prime Sponsor, Senator Jacobsen: Regarding watchable wildlife. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6230 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Morton; Fraser; Rockefeller; Spanel; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 24, 2008

SB 6238 Prime Sponsor, Senator Fairley: Modifying assessed valuation requirements for the direct petition method of annexation. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Kline; McDermott; Pridemore and Swecker.

MINORITY recommendation: Do not pass. Signed by Senators Roach and Benton.

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Passed to Committee on Rules for second reading.

January 22, 2008

SB 6252 Prime Sponsor, Senator Hatfield: Increasing the number of district court judges in Cowlitz county. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin; Carrell; Hargrove; McDermott; Roach and Weinstein.

Passed to Committee on Rules for second reading.

January 24, 2008

SB 6260 Prime Sponsor, Senator Kilmer: Providing hunting and fishing opportunities to seriously ill children. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6260 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Morton; Fraser; Hargrove; Rockefeller; Spanel; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 24, 2008

SB 6289 Prime Sponsor, Senator Spanel: Regarding Puget Sound Dungeness crab catch record cards. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Morton; Fraser; Spanel; Stevens and Swecker.

Passed to Committee on Ways &amp; Means.

January 24, 2008

SB 6302 Prime Sponsor, Senator Kohl-Welles: Establishing standards for prescription drug marketing and disclosure. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6302 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley; Kastama and Kohl-Welles.

MINORITY recommendation: Do not pass. Signed by Senators Pflug; Carrell; Marr and Parlette.

Passed to Committee on Ways &amp; Means.

January 22, 2008

SB 6357 Prime Sponsor, Senator Kohl-Welles: Regarding service of process in domestic violence cases. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin; Carrell; Hargrove; McDermott; Roach and Weinstein.

Passed to Committee on Rules for second reading.

January 24, 2008

SB 6364 Prime Sponsor, Senator Marr: Establishing standards for long-term care insurance. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Carrell; Fairley; Kastama; Kohl-Welles; Marr and Parlette.

Passed to Committee on Rules for second reading.

January 23, 2008

SB 6442 Prime Sponsor, Senator Regala: Modifying provisions relating to the office of public defense. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6442 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin; Carrell; Hargrove; McDermott; Roach and Weinstein.

Passed to Committee on Rules for second reading.

January 24, 2008

SB 6465 Prime Sponsor, Senator Roach: Allowing active duty military personnel to purchase a temporary fishing license at the resident rate. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Morton; Fraser; Hargrove; Rockefeller; Spanel; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 22, 2008

SB 6525 Prime Sponsor, Senator Kline: Concerning the drug offender sentencing alternative. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin; Carrell; Hargrove; McDermott; Roach and Weinstein.

Passed to Committee on Rules for second reading.

January 24, 2008

SJR 8223 Prime Sponsor, Senator Carrell: Repealing a conflicting residency requirement for voting in a presidential election. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; Kline; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

January 24, 2008

SGA 9351 DAVE SEABROOK, appointed on May 22, 2007, for the term ending December 31, 2011, as Member of the Public Disclosure Commission. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; Kline; McDermott; Pridemore and Swecker.

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Passed to Committee on Rules for second reading.

January 24, 2008

January 24, 2008  
SGA 9375 JIM CLEMENTS, appointed on January 9, 2008, for the term ending December 31, 2012, as Member of the Public Disclosure Commission. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Benton; Kline; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

MOTION

Senator Eide moved that all measures listed on the Standing Committee Report be referred to the Committees as designated with the exception of Senate Bill No. 6289 which be referred to the Committee on Ways & Means.

MOTION

Senator Pflug moved to amend the motion by Senator Eide and that Engrossed Senate Bill No. 5261 be referred to the Committee on Ways & Means.

Senator Pflug spoke in favor of the motion.  
 Senator Keiser spoke against the motion.

PARLIAMENTARY INQUIRY

Senator Zarelli: "Mr. President, I'm not sure how the, whether this bill, it appears that it might Initiative 960 implications. I'm not sure whether that has anything to do with where that bill can be referred to Rules or whether it ought to be referred and, as required under the initiative, that OFM would have to do an analysis of the bill."

PRESIDENTS RULING

President Owen: "Senator Zarelli, the President believes that OFM's responsibilities are not at issue. Where you choose to send the bill is up to the Senate."

The motion by Senator Pflug to refer Engrossed Senate Bill No. 5261 to the Committee on Ways & Means failed.

The President declared the question before the Senate to be the motion by Senator Pflug to amend the motion by Senator Eide and that Engrossed Senate Bill No. 5261 be referred to the Committee on Ways & Means.

The motion by Senator Pflug to refer Engrossed Senate Bill No. 5261 to the Committee on Ways & Means failed.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 6289 which was referred to the Committee on Ways & Means.

MOTION

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

MESSAGES FROM STATE OFFICES

STATE OF WASHINGTON

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
 Secretary of the Senate  
 P.O. Box 40482  
 Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Joint Task Force on Family Leave Insurance. This report is mandated under SB 5659, 2007.

If you have any questions about the report, please call . The Joint Task Force on Family Leave Insurance is on file in the Office of the Secretary of the Senate.

MESSAGES FROM STATE OFFICES

January 24, 2008

STATE OF WASHINGTON

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
 Secretary of the Senate  
 P.O. Box 40482  
 Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Department of Social & Health Services, Traumatic Brain Injury Annual Report. This report is mandated under Chapter 356, Laws of 2007.

If you have any questions about the report, please call 360-725-2320.

Sincerely,

Robin Arnold-Williams, Secretary  
 The Department of Social & Health Services, Traumatic Brain Injury Annual Report is on file in the Office of the Secretary of the Senate.

MESSAGES FROM STATE OFFICES

January 24, 2008

STATE OF WASHINGTON

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
 Secretary of the Senate  
 P.O. Box 40482  
 Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Department of Social & Health Services, Traumatic Brain Injury Comprehensive Statewide Plan Preliminary Report. This report is mandated under Chapter 356, Laws of 2007.

If you have any questions about the report, please call 360-725-2320.

Sincerely,

Robin Arnold-Williams, Secretary  
 The Department of Social & Health Services, Traumatic Brain Injury Comprehensive Statewide Plan Preliminary Report is on file in the Office of the Secretary of the Senate.

MOTION

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

INTRODUCTION AND FIRST READING

SB 6819 by Senators Kohl-Welles and Fairley

AN ACT Relating to providing consistency in terminology in the Revised Code of Washington; amending RCW 43.105.020 and 9A.36.080; and creating a new section.

Referred to Committee on Government Operations & Elections.

SB 6820 by Senators Kastama, Rasmussen, Shin, Kline, Kohl-Welles, Murray, Franklin, Brown, Eide, Regala, Hobbs, Berkey, Swecker, McCaslin, McAuliffe and McDermott

AN ACT Relating to creating the Washington investment in student excellence scholarship program; amending RCW 67.70.240; and adding a new chapter to Title 28B RCW.

Referred to Committee on Economic Development, Trade & Management.

SB 6821 by Senators Hatfield and Jacobsen

AN ACT Relating to the disclosure of certain fish and wildlife information; and amending RCW 42.56.430.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6822 by Senators Murray, Pridemore, Kline, Kohl-Welles, McAuliffe and Sheldon

AN ACT Relating to establishing goals to reduce vehicle miles traveled; adding a new section to chapter 47.01 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 6823 by Senators Brandland, Fraser, Swecker and Rasmussen

AN ACT Relating to funding catastrophic flood relief; making appropriations; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6824 by Senators McDermott, Schoesler and Kline

AN ACT Relating to process servers; amending RCW 18.180.010 and 46.12.370; and reenacting and amending RCW 46.20.118.

Referred to Committee on Judiciary.

SB 6825 by Senator Jacobsen

AN ACT Relating to assisting small business owners by capping the credit card transaction fee paid by such owners; and adding a new chapter to Title 19 RCW.

Referred to Committee on Financial Institutions & Insurance.

SB 6826 by Senators Hargrove, Stevens and Carrell

AN ACT Relating to search and seizures of offenders and their property in department of corrections field offices; and amending RCW 9.94A.631.

Referred to Committee on Human Services & Corrections.

SB 6827 by Senators Holmquist, King, Honeyford, Stevens, Hewitt, Parlette, Morton and McCaslin

AN ACT Relating to worker's compensation reform; amending RCW 51.08.100, 51.08.160, 51.32.020, 51.32.060, 51.32.075, 51.32.100, 51.32.160, and 51.52.120; reenacting and amending RCW 51.32.090; adding a new section to chapter 51.32 RCW; adding a new section to chapter 51.36 RCW; prescribing penalties; and providing an effective date.

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

SB 6828 by Senators Marr, Prentice, Zarelli, Schoesler, Hobbs, Kilmer, Shin and Rasmussen

AN ACT Relating to the excise taxation of the aerospace industry; amending RCW 82.08.975, 82.12.975, 82.04.250, 82.04.250, 82.04.290, 82.04.4461, 82.04.4463, 82.04.44525, 82.32.545, 82.32.330, and 82.32.550; reenacting and amending RCW 82.04.260, 82.32.590, and 82.32.600; creating new sections; repealing RCW 82.04.4487, 82.08.981, 82.12.981, 82.32.635, and 82.32.640; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 6829 by Senator Pridemore

AN ACT Relating to raffle ticket prices; and amending RCW 9.46.0277.

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

SB 6830 by Senators Murray, Spanel, Kohl-Welles, Kline and McDermott

AN ACT Relating to exemption of car sharing from retail sales and use tax; amending RCW 81.104.170; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SB 6831 by Senators Murray, Holmquist, Marr, Rasmussen, Kohl-Welles and McAuliffe

AN ACT Relating to improving the efficiency of excise tax collections from small domestic wineries; amending RCW 66.24.230; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6832 by Senators Shin, Schoesler, Delvin, Kilmer, Jacobsen, Rasmussen, Rockefeller and McAuliffe

AN ACT Relating to career colleges' participation in the opportunity grant program; and amending RCW 28B.50.030 and 28B.50.272.

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Referred to Committee on Higher Education.

SB 6833 by Senators Kline, Weinstein, Rockefeller, Shin, Hobbs, Kohl-Welles and McAuliffe

AN ACT Relating to citizen enforcement of health and environmental laws; adding a new chapter to Title 4 RCW; and prescribing penalties.

Referred to Committee on Water, Energy & Telecommunications.

SB 6834 by Senators Rasmussen and Kastama

AN ACT Relating to special assessments for conservation districts in counties having a population between seven hundred seventy-five thousand and one million five hundred thousand persons; amending RCW 89.08.400; and creating a new section.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6835 by Senators Kohl-Welles and Keiser

AN ACT Relating to labor and management relations; and adding a new chapter to Title 49 RCW.

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

SB 6836 by Senators Kilmer, Swecker, Eide and Marr

AN ACT Relating to a secure internet-based system to generate temporary permits to operate vehicles; and amending RCW 46.16.047.

Referred to Committee on Transportation.

SB 6837 by Senators Brown, Swecker, Marr and McAuliffe

AN ACT Relating to the prescription drug assistance foundation; and amending RCW 41.05.550.

Referred to Committee on Health & Long-Term Care.

MOTION

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

MOTION

On motion Senator Eide, that measures listed on the sheet entitled 'Additional disposition of bills in Rules were referred as designated.

The following measures were referred to the Rules X file:

BILL	TITLE	STATUS	ORIGINAL SPONSOR
ESSB 5550	Real property	S Rules 3G	Weinstein
SSB 5650	Automatic service charges	S Rules 2	Kauffman

SB 5766	Investment of funds	S Rules 2	Fraser
SJR 8220	Prohibition on investment	S Rules 2	Fraser

The following measures shall be moved from the Rules X file to the Rules White Sheet:

BILL	TITLE	STATUS	ORIGINAL SPONSOR
SB 5868	Civil disorder	S Rules X	Kline
SSB 5870	Criminal case records	S Rules X	Kline

MOTION

At 10:20 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 11:30 a.m. by the President Pro Tempore.

MOTION

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

SECOND READING

ENGROSSED SENATE BILL NO. 5261, by Senators Keiser, Franklin, Kohl-Welles, Fairley and Kline

Granting the insurance commissioner the authority to review individual health benefit plan rates.

MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5261 was substituted for Engrossed Senate Bill No. 5261 and the substitute bill was placed on the second reading and read the second time.

Senator Keiser spoke in favor of the substitute bill.

PARLIAMENTARY INQUIRY

Senator Pflug: "I'm a little confused that this, at this point are we suppose to be debating the merits of the substitute that is before us. That sounds more like a final passage speech to me. Usually we take the amendments to the proposed substitute before we talk about the current state."

REPLY BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "Senator, the amendment is in the substitute and the amendment will be explained later. The amendment is being prepared to the substitute. Senator, the amendment in the substitute was explained in the substitute bill."

REMARKS BY SENATOR EIDE

Senator Eide: "Perhaps I can help clear the question. I believe that the good Senator's asking. We are currently looking at the Substitute Senate Bill No. 5261 which was a bill that was exec'ed and voted on out of committee. We're currently looking at this and then the amendments will come forward to attach to this proposed substitute."

REMARKS BY SENATOR PFLUG

Senator Pflug: "Thank you Madam President. I still feel like the Senator is talking about a committee amendment so she's now speaking to what the substitute contains which is out of order at this point I believe. However, if it's not, if the Senator

is going to advocate for the benefits of the committee-adopted amendment then I certainly have comments about why that wasn't a very good amendment. My question is, are we going to debate the committee-adopted amendment? The Senator from the thirty-third is now talking about that but I believe that is third reading and improperly before us."

REPLY BY THE PRESIDENT PRO TEMPORE

Senator Franklin: "Senator Pflug if you wish to speak to the amendment which is in the substitute that Senator Keiser has put forth, you may do that now."

Senators Pflug and Carrell spoke against the substitute bill. Senator Marr spoke in favor of the substitute bill.

POINT OF INQUIRY

Senator Pflug: "Will Senator Marr yield to a question?"

Senator Marr: "No."

MOTION

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

On page 2, line 9, after "charged." strike everything through "commissioner." on line 11.

On page 3, line 11, after "contract." strike everything through "commissioner." on line 13.

On page 4, line 33, after "agreement." strike everything through "commissioner." on line 35.

Senator Pflug spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 2, line 9 to Substitute Senate Bill No. 5261.

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

MOTION

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

On page 5, beginning on line 29, after "(c)" strike everything down through and including line 2 on page 6, and insert the following:

"Declination rate" for an insurer means the percentage of the total number of applicants for individual health benefit plans received by that insurer in the aggregate in the applicable year which are not accepted for enrollment by that insurer based on the results of the standard health questionnaire administered pursuant to RCW 48.43.018(2)(a).

~~((c))~~(d)"Earned premiums" means premiums, as defined in RCW 48.43.005, plus any rate credits or recoupments less any refunds, for the applicable period, whether received before, during, or after the applicable period.

~~(e))~~(f)"Incurred claims expense" means claims paid during the applicable period plus any increase, or less any decrease, in the claims reserves.

~~(f))~~(g)"Loss ratio" means incurred claims expense as a

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percentage of earned premiums.

(g)((f))"Reserves" means: (i) Active life reserves; and (ii) additional reserves whether for a specific liability purpose or not."

On page 6, line 21, after "standard" strike everything through "section." on line 22 and insert, "~~((established in subsection (7) of this section.))~~ of seventy four percent, minus the premium tax rate applicable to the insurer's individual health benefit plans under RCW 48.14.020."

On page 6, line 28, after "loss ratio" insert "and its actual declination rate"

On page 7, line 29, after "~~((seventy-four))~~" strike "seventy-seven percent" and insert "~~((percent))~~ the percentage set forth in the following schedule that correlates to the health care service contractor's actual declination rate in the preceding year."

On page 7, line 31, after "48.14.020." insert the following:

<u>Actual Declination Rate</u>	<u>Loss Ratio</u>
<u>Under Six Percent (6%)</u>	<u>Seventy Four Percent (74%)</u>
<u>Six Percent (6%) or more (but less than Seven Percent)</u>	<u>Seventy Five Percent (75%)</u>
<u>Seven Percent (7%) or more (but less than Eight Percent)</u>	<u>Seventy Six Percent (76%)</u>
<u>Eight Percent (8%) or more</u>	<u>Seventy Seven Percent (77%)</u>

On page 8, line 11 after "(c)" insert the following:

"Declination rate" for an insurer means the percentage of the total number of applicants for individual health benefit plans received by that insurer in the aggregate in the applicable year which are not accepted for enrollment by that insurer based on the results of the standard health questionnaire administered pursuant to RCW 48.43.018(2)(a).

(d)((e))"

On page 8, line 15, strike "(d)" and insert "~~((f))~~(e)"

On page 8, line 18, strike "(e)" and insert "~~((e))~~(f)"

On page 8, line 20 strike "(f)" and insert "~~((f))~~(g)"

On page 9, on line 4, strike everything through "section." on line 5 and insert "~~((established in subsection (7) of this section.))~~ of seventy four percent, minus the premium tax rate applicable to the insurer's individual health benefit plans under RCW 48.14.020."

On page 9, line 11, after "loss ratio" insert "and its actual declination rate"

On page 10, line 14, after "~~((seventy-four))~~" strike "seventy-seven percent" and insert, "~~((percent))~~ the percentage set forth in the following schedule that correlates to the health care service contractor's actual declination rate in the preceding year."

On page 10, line 16, after "RCW 48.14.0201." insert the following:

<u>Actual Declination Rate</u>	<u>Loss Ratio</u>
<u>Under Six Percent (6%)</u>	<u>Seventy Four Percent (74%)</u>
<u>Six Percent (6%) or more (but less than Seven Percent)</u>	<u>Seventy Five Percent (75%)</u>
<u>Seven Percent (7%) or more (but less than Eight Percent)</u>	<u>Seventy Six Percent (76%)</u>
<u>Eight Percent (8%) or more</u>	<u>Seventy Seven Percent (77%)</u>

On page 10, line 33, after "(c)" insert the following:

"Declination rate" for an insurer means the percentage of

the total number of applicants for individual health benefit plans received by that insurer in the aggregate in the applicable year which are not accepted for enrollment by that insurer based on the results of the standard health questionnaire administered pursuant to RCW 48.43.018(2)(a).

(d)"

On page 11, line 1, strike "(d)" and insert "~~((f))~~(e)"

On page 11, line 4, strike "(e)" and insert "~~((e))~~(f)"

On page 11, line 6, strike "(f)" and insert "~~((f))~~(g)"

On page 11, line 28 after "standard" strike everything through "section." on line 29 and insert "~~((established in subsection (7) of this section.))~~ of seventy four percent, minus the premium tax rate applicable to the insurer's individual health benefit plans under RCW 48.14.020."

On page 11, line 35 after "loss ratio" insert "and its actual declination rate"

On page 13, line 2 after "~~((seventy-four))~~" strike "seventy-seven" and insert "~~((percent))~~ the percentage set forth in the following schedule that correlates to the health maintenance organization's actual declination rate in the preceding year."

On page 13, line 4 after "RCW 48.14.0201." insert the following:

<u>Actual Declination Rate</u>	<u>Loss Ratio</u>
<u>Under Six Percent (6%)</u>	<u>Seventy Four Percent (74%)</u>
<u>Six Percent (6%) or more (but less than Seven Percent)</u>	<u>Seventy Five Percent (75%)</u>
<u>Seven Percent (7%) or more (but less than Eight Percent)</u>	<u>Seventy Six Percent (76%)</u>
<u>Eight Percent (8%) or more</u>	<u>Seventy Seven Percent (77%)</u>

Senators Parlette and Keiser spoke in favor of adoption of the amendment.

POINT OF INQUIRY

Senator Pflug: "Would Senator Keiser yield to a question?"

Senator Keiser: "No."

Senator Pflug spoke on adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Parlette on page 5, beginning on line 29 to Substitute Senate Bill No. 5261.

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

MOTION

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

On page 13, after line 7, insert the following:

"NEW SECTION. **Sec. 8.** 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 1, line 4 of the title, strike "and" and after "section" insert "; and providing for submission of this act to a vote of the people"

Senator Pflug spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

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The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 13, after line 7 to Substitute Senate Bill No. 5261.

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

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5261 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5261.

#### PARLIAMENTARY INQUIRY

Senator Eide: "Have we rolled all the amendments into the Engrossed Substitute Senate Bill 5261?"

#### REMARKS BY THE PRESIDENT PRO TEMPORE

Senator Franklin: "There was one amendment that passed, yes."

#### REMARKS BY SENATOR EIDE

Senator Eide: "Just for the clarification, keeping it on the floor calendar puts it in third reading automatically."

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5261 was deferred and the bill held its place on the third reading calendar.

#### SECOND READING

SENATE BILL NO. 5657, by Senators Keiser, Delvin, Hewitt, Hobbs, Oemig, Murray, Tom, Brandland, Rockefeller, McAuliffe and Kohl-Welles

Creating the revised uniform anatomical gift act.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** This chapter may be cited as the revised uniform anatomical gift act.

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

(1) "Adult" means an individual who is at least eighteen years old.

(2) "Agent" means an individual:

(a) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift.

(5) "Disinterested witness" means a witness other than the spouse or state registered domestic partner, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under section 11 of this act.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the department of licensing to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the department of licensing.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is less than eighteen years old.

(16) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. "Prospective donor" does not include an individual who has made a refusal.

(23) "Reasonable costs" include: (a) Programming and software installation and upgrades; (b) employee training that is specific to the organ and tissue donor registry or the donation program created in RCW 46.12.510; (c) literature that is specific to the organ and tissue donor registry or the donation program created in RCW 46.12.510; and (d) hardware upgrades or other issues important to the organ and tissue donor registry or the donation program created in RCW 46.12.510 that have been mutually agreed upon in advance by the department of licensing and the Washington state organ procurement organizations.

(24) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and



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able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(25) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(26) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) "Refusal" means a record created under section 7 of this act that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(28) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(29) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(31) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(32) "Tissue bank" means a person that is licensed to conduct business in this state, accredited, and regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(33) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(34) "Washington state organ procurement organization" means an organ procurement organization that has been designated by the United States department of health and human services to coordinate organ procurement activities for any portion of Washington state.

**NEW SECTION. Sec. 3.** This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

**NEW SECTION. Sec. 4.** Subject to section 8 of this act, an anatomical gift of a donor's body or part may be made during the life of the donor in the manner provided in section 5 of this act by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(a) Emancipated; or

(b) Authorized under state law to apply for a driver's license because the donor is at least fifteen and one-half years old;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; provided, however, that an anatomical gift made pursuant to this subsection shall cease to be valid once the donor becomes either an emancipated minor or an adult; or

(4) The donor's guardian.

**NEW SECTION. Sec. 5.** (1) A donor may make an anatomical gift:

(a) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(b) In a will;

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(d) As provided in subsection (2) of this section.

(2) A donor or other person authorized to make an

anatomical gift under section 4 of this act may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) Revocation, suspension, expiration, or cancellation of a driver's license or identification card through which an anatomical gift has been made does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

**NEW SECTION. Sec. 6.** (1) Subject to section 8 of this act, a donor or other person authorized to make an anatomical gift under section 4 of this act may amend or revoke an anatomical gift by:

(a) A record signed by:

(i) The donor;

(ii) The other person; or

(iii) Subject to subsection (2) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to subsection (1)(a)(iii) of this section must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) Subject to section 8 of this act, a donor or other person authorized to make an anatomical gift under section 4 of this act may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift. The donor or other person shall notify the Washington organ procurement organization of the destruction or cancellation of the document of gift for the purpose of removing the individual's name from the organ and tissue donor registry created in RCW 68.50.635 (as recodified by this act). If the Washington state organ procurement organization that is notified does not maintain a registry for Washington residents, it shall notify all Washington state procurement organizations that do maintain such a registry.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1) of this section.

**NEW SECTION. Sec. 7.** (1) An individual may refuse to make an anatomical gift of the individual's body or part by:

(a) A record signed by:

(i) The individual; or

(ii) Subject to subsection (2) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

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(b) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(c) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(2) A record signed pursuant to subsection (1)(a)(ii) of this section must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) An individual who has made a refusal may amend or revoke the refusal:

(a) In the manner provided in subsection (1) of this section for making a refusal;

(b) By subsequently making an anatomical gift pursuant to section 5 of this act that is inconsistent with the refusal; or

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in section 8(8) of this act, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

**NEW SECTION. Sec. 8.** (1) Except as otherwise provided in subsection (7) of this section and subject to subsection (6) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 5 of this act or an amendment to an anatomical gift of the donor's body or part under section 6 of this act.

(2) A donor's revocation of an anatomical gift of the donor's body or part under section 6 of this act is not a refusal and does not bar another person specified in section 4 or 9 of this act from making an anatomical gift of the donor's body or part under section 5 or 10 of this act.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 5 of this act or an amendment to an anatomical gift of the donor's body or part under section 6 of this act, another person may not make, amend, or revoke the gift of the donor's body or part under section 10 of this act.

(4) A revocation of an anatomical gift of a donor's body or part under section 6 of this act by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 5 or 10 of this act.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 4 of this act, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 4 of this act, an anatomical gift of a part for one or more of the permitted purposes is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 5 or 10 of this act.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

**NEW SECTION. Sec. 9.** (1) Subject to subsections (2) and (3) of this section and unless barred by section 7 or 8 of this act, an anatomical gift of a decedent's body or part may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(a) An agent of the decedent at the time of death who could have made an anatomical gift under section 4(2) of this act immediately before the decedent's death;

(b) The spouse, or domestic partner registered as required by state law, of the decedent;

(c) Adult children of the decedent;

(d) Parents of the decedent;

(e) Adult siblings of the decedent;

(f) Adult grandchildren of the decedent;

(g) Grandparents of the decedent;

(h) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(i) Any other person having the authority under applicable law to dispose of the decedent's body.

(2) If there is more than one member of a class listed in subsection (1)(a), (c), (d), (e), (f), (g), or (h) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 11 of this act knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) of this section is reasonably available to make or to object to the making of an anatomical gift.

**NEW SECTION. Sec. 10.** (1) A person authorized to make an anatomical gift under section 9 of this act may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to subsection (3) of this section, an anatomical gift by a person authorized under section 9 of this act may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under section 9 of this act may be:

(a) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before transplant procedures have begun on the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

**NEW SECTION. Sec. 11.** (1) An anatomical gift may be made to the following persons named in the document of gift:

(a) For research or education: A hospital; an accredited medical school, dental school, college, or university; or an organ procurement organization;

(b) Subject to subsection (2) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(c) An eye bank or tissue bank.

(2) If an anatomical gift to an individual under subsection (1)(b) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (7) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of one or more specific parts or of

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all parts is made in a document of gift that does not name a person described in subsection (1) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purpose of subsection (3) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (1) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(7) For purposes of subsections (2), (5), and (6) of this section the following rules apply:

(a) If the part is an eye, the gift passes to the appropriate eye bank.

(b) If the part is tissue, the gift passes to the appropriate tissue bank.

(c) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b) of this section, passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to subsections (1) through (8) of this section or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 5 or 10 of this act or if the person knows that the decedent made a refusal under section 7 of this act that was not revoked. For purposes of this subsection (10), if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in subsection (1)(b) of this section, nothing in this chapter affects the allocation of organs for transplantation or therapy.

**NEW SECTION. Sec. 12.** (1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a

person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 11 of this act.

**NEW SECTION. Sec. 13.** (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the department of licensing and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the department of licensing to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under section 11 of this act may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under subsection (3) or (4) of this section may include an examination of all medical records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in section 9 of this act having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to sections 11(9), 21, and 22 of this act, the rights of the person to which a part passes under section 11 of this act are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 11 of this act, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**NEW SECTION. Sec. 14.** When English is not the first language of the person or persons making, amending, revoking, or refusing anatomical gifts as defined in this act, organ procurement organizations are responsible for providing, at no

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cost, appropriate interpreter services or translations to such persons for the purpose of making such decisions.

**NEW SECTION. Sec. 15.** Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

**NEW SECTION. Sec. 16.** (1) Except as otherwise provided in subsection (2) of this section, a person who, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death is guilty of a class C felony under RCW 9A.20.010.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

**NEW SECTION. Sec. 17.** A person who, in order to obtain financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is guilty of a class C felony under RCW 9A.20.010.

**NEW SECTION. Sec. 18.** (1) A person who acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in section 9(1)(b) through (g) of this act relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

**NEW SECTION. Sec. 19.** (1) A document of gift is valid if executed in accordance with:

(a) This chapter;

(b) The laws of the state or country where it was executed;

or

(c) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

**NEW SECTION. Sec. 20.** (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Advance health care directive" means a power of attorney for health care or a "directive" as defined in RCW 70.122.020.

(b) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) "Health care decision" means any decision made regarding the health care of the prospective donor.

(2) If a prospective donor has a declaration or advance health care directive, and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and the prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably

available, another person authorized by law other than this chapter to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 9 of this act. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

**NEW SECTION. Sec. 21.** (1)(a) A coroner or medical examiner shall cooperate with procurement organizations, to the extent that such cooperation does not prevent, hinder, or impede the timely investigation of death, to facilitate the opportunity to recover anatomical gifts for the purpose of transplantation or therapy. However, a coroner or medical examiner may limit the number of procurement organizations with which he or she cooperates.

(b) The coroner or medical examiner may release the initial investigative information to the tissue or organ procurement organization for the purpose of determining the suitability of the potential donor by those organizations. The information released for this purpose shall remain confidential. The coroner or medical examiner is not liable for any release of confidential information by the procurement organization.

(2)(a) Procurement organizations shall cooperate with the coroner or medical examiner to ensure the preservation of and timely transfer to the coroner or medical examiner any physical or biological evidence from a prospective donor that the procurement organization may have contact with or access to that is required by the coroner or medical examiner for the investigation of death.

(b) If the coroner or medical examiner or a designee releases a part for donation under subsection (4) of this section, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the coroner or medical examiner with a record describing the condition of the part, biopsies, residual tissue, photographs, and any other information and observations requested by the coroner or medical examiner that would assist in the investigation of death.

(3) A part may not be removed from the body of a decedent under the jurisdiction of a coroner or medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift, and has been released by the coroner or medical examiner. The body of a decedent under the jurisdiction of the coroner or medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner or medical examiner from performing the medicolegal investigation upon the body or relevant parts of a decedent under the jurisdiction of the coroner or medical examiner.

(4) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner or medical examiner has been or might be made, but the coroner or medical examiner initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death, the collection of evidence, or the description, documentation, or interpretation of injuries on the body, the coroner or medical examiner may consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the coroner or medical examiner may release the part for recovery.

**NEW SECTION. Sec. 22.** This chapter is subject to the laws of this state governing the jurisdiction of the coroner or

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medical examiner.

**NEW SECTION. Sec. 23.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**NEW SECTION. Sec. 24.** This chapter modifies, limits, and supersedes the federal electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001 et seq.) with respect to electronic signatures and anatomical gifts, but does not modify, limit, or supersede section 101(a) of that act (15 U.S.C. Sec. 7001), or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

**Sec. 25.** RCW 1.50.010 and 1998 c 59 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Organ donor" means an individual who makes an anatomical gift as specified in (~~RCW 68.50.530(1)~~) chapter 68.-- RCW (sections 1 through 24 of this act).

(2) "Organ procurement organization" (~~means any accredited or certified organ or eye bank~~) has the same meaning as in section 2 of this act.

(3) "Person" means a person specified in (~~RCW 68.50.550~~) section 9 of this act.

**Sec. 26.** RCW 46.12.510 and 2003 c 94 s 6 are each amended to read as follows:

An applicant for a new or renewed registration for a vehicle required to be registered under this chapter or chapter 46.16 RCW may make a donation of one dollar or more to the organ and tissue donation awareness account to promote the donation of organs and tissues under the provisions of the uniform anatomical gift act, (~~RCW 68.50.520 through 68.50.630~~) chapter 68.-- RCW (sections 1 through 24 of this act). The department shall collect the donations and credit the donations to the organ and tissue donation awareness account, created in RCW 68.50.640 (as recodified by this act). At least quarterly, the department shall transmit donations made to the organ and tissue donation awareness account to the foundation established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. All Washington state organ procurement organizations will have proportional access to these funds to conduct public education in their service areas. The donation of one or more dollars is voluntary and may be refused by the applicant. The department shall make available informational booklets or other informational sources on the importance of organ and tissue donations to applicants.

The department shall inquire of each applicant at the time the completed application is presented whether the applicant is interested in making a donation of one dollar or more and shall also specifically inform the applicant of the option for organ and tissue donations as required by RCW 46.20.113. The department shall also provide written information to each applicant volunteering to become an organ and tissue donor. The written information shall disclose that the applicant's name shall be transmitted to the organ and tissue donor registry created in RCW 68.50.635 (as recodified by this act), and that the applicant shall notify a Washington state organ procurement organization of any changes to the applicant's donor status.

All reasonable costs associated with the creation of the donation program created under this section must be paid proportionally or by other agreement by a Washington state organ procurement organization.

For the purposes of this section, "reasonable costs" and "Washington state organ procurement organization" have the same meaning as defined in (~~RCW 68.50.530~~) section 2 of this act.

**Sec. 27.** RCW 46.20.113 and 1993 c 228 s 18 are each

amended to read as follows:

The department of licensing shall provide a statement whereby the licensee may certify his or her willingness to make an anatomical gift under (~~RCW 68.50.540~~) section 4 of this act, as now or hereafter amended. The department shall provide the statement in at least one of the following ways:

- (1) On each driver's license; or
- (2) With each driver's license; or
- (3) With each in-person driver's license application.

**Sec. 28.** RCW 46.20.1131 and 2003 c 94 s 5 are each amended to read as follows:

The department shall electronically transfer the information of all persons who upon application for a driver's license or identocard volunteer to donate organs or tissue to a registry created in RCW 68.50.635 (as recodified by this act), and any subsequent changes to the applicant's donor status when the applicant renews a driver's license or identocard or applies for a new driver's license or identocard.

**NEW SECTION. Sec. 29.** Sections 1 through 24 of this act constitute a new chapter in Title 68 RCW.

**NEW SECTION. Sec. 30.** RCW 68.50.500, 68.50.635, and 68.50.640 are each recodified as sections in the new chapter created in section 29 of this act.

**NEW SECTION. Sec. 31.** The following acts or parts of acts are each repealed:

- (1) RCW 68.50.510 (Good faith compliance with RCW 68.50.500--Hospital liability) and 1987 c 331 s 72 & 1986 c 129 s 2;
- (2) RCW 68.50.520 (Anatomical gifts--Findings--Declaration) and 1993 c 228 s 1;
- (3) RCW 68.50.530 (Anatomical gifts--Definitions) and 2003 c 94 s 2, 1996 c 178 s 15, & 1993 c 228 s 2;
- (4) RCW 68.50.540 (Anatomical gifts--Authorized--Procedures--Changes--Refusal) and 2003 c 94 s 4, 1995 c 132 s 1, & 1993 c 228 s 3;
- (5) RCW 68.50.550 (Anatomical gifts--By person other than decedent) and 2007 c 156 s 26 & 1993 c 228 s 4;
- (6) RCW 68.50.560 (Anatomical gifts--Hospital procedure--Records--Liability) and 1993 c 228 s 5;
- (7) RCW 68.50.570 (Anatomical gifts--Donees) and 1993 c 228 s 6;
- (8) RCW 68.50.580 (Anatomical gifts--Document of gift--Delivery) and 1993 c 228 s 7;
- (9) RCW 68.50.590 (Anatomical gifts--Rights of donee--Time of death--Actions by technician, enucleator) and 1993 c 228 s 8;
- (10) RCW 68.50.600 (Anatomical gifts--Hospitals--Procurement and use coordination) and 1993 c 228 s 9;
- (11) RCW 68.50.610 (Anatomical gifts--Illegal purchase or sale--Penalty) and 2003 c 53 s 312 & 1993 c 228 s 10; and
- (12) RCW 68.50.620 (Anatomical gifts--Examination for medical acceptability--Jurisdiction of coroner, medical examiner--Liability limited) and 1993 c 228 s 11."

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "amending RCW 1.50.010, 46.12.510, 46.20.113, and 46.20.1131; adding a new chapter to Title 68 RCW; recodifying RCW 68.50.500, 68.50.635, and 68.50.640; repealing RCW 68.50.510, 68.50.520, 68.50.530, 68.50.540, 68.50.550, 68.50.560, 68.50.570, 68.50.580, 68.50.590, 68.50.600, 68.50.610, and 68.50.620; and prescribing penalties."

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

MOTION

Senator Pflug moved to defer further consideration of Senate Bill No. 5657.

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Senators Eide and Keiser spoke against the motion.

#### PARLIAMENTARY INQUIRY

Senator Benton: "Thank you Madam chair. The gentle lady from the Fifth District has made a motion that further consideration of the bill be deferred. Apparently we are debating that bill or that motion, wasn't aware that debate was allowed on a motion to defer but maybe it is. I'd like to know if we're going to continue to debate that or if we're going to actually take action on the good Senator's motion?"

The President Pro Tempore declared the question before the Senate to be the motion by Senator Pflug to defer further consideration of Senate Bill No. 5657.

The motion by Senator Pflug failed by voice vote.

#### REMARKS BY SENATOR PFLUG

Senator Pflug: "Thank you Madam President. I would like to note for the record that it was inappropriate to allow the majority to debate the motion to defer which is not a debatable motion and not to allow the minority to debate the motion to defer. Therefore, I would like to take a moment to point out that the good Senator's comments about there being nothing new in a fifteen page amendment which starts out with new section 1, new section 2, new section 3, new section 4, new section 5, new section 6, new section 7, new section 8, continues to new section 9, new section 10, new section 11, new section 12, new section 13, new section 14, new section 15, new section 16, new section 17, new section 18, new section 19, new section 20, new section 21, new section 22, new section 23, new section 24, new section 25, new section 27, new section 28, 29 30, ya, that's all the new sections and then one more amendment. That is hardly called 'not new.' Further, I would point out that while the good chair says, 'This has all been worked out; I would like to know who 'we' is. Whose we. Kemosabe because I haven't seen this before. I was unaware that anybody had an objection with the bill that was passed out earlier this week. I was not included in it. The chair has not spoken to me about this amendment or any of the discussions or any of the problems that we supposedly had. This is clearly an abuse of the process. It's clearly abuse of the good faith of the minority in allowing this bill to come forward early without due consideration of this amendment and I am extremely frustrated by that. I have no idea whether or not we should recommend adoption of this fifteen page amendment or not because we haven't seen it before. The chair's explanation was, to summarize, the people who had objections, we've worked out those objections. She didn't tell us what the objections were or how they were worked out. So the body is voting completely blind and on partisan lines here because we have no information. I think that's really poor. It's going to look really poor, I think, to the public too."

#### REMARKS BY SENATOR KEISER

Senator Keiser: "Thank you Madam President. well, since the good Senator from the Fifth District does not understand the bill before us or the bill that's been worked on I think it would be fine to sit down and go through it word by word and make sure that all parties understand each word and we have no confusion about this bill which will save lives because every day eighteen people die waiting for organ transplants."

#### REMARKS BY SENATOR PFLUG

Senator Pflug: "Thank you Madam Chair, or Madam President. I appreciate the good lady's willingness to defer action on this. I didn't appreciate the suggestion that somehow

fifteen people were going to die while we debated, while we took the time to read the bill."

#### MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 5657 was deferred and the bill held its place on the second reading calendar.

#### PERSONAL PRIVILEGE

Senator Jacobsen: "I just checked in what 'Kemosabe' means and it means 'greetings trusty scout'."

#### SECOND READING

SENATE BILL NO. 5285, by Senator Keiser

Concerning residential services and support enforcement standards.

#### MOTIONS

On motion of Senator Eide, Substitute Senate Bill No. 5285 was substituted for Senate Bill No. 5285 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Eide, the rules were suspended, Substitute Senate Bill No. 5285 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 Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5285.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5285 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 SENATE BILL NO. 5285, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6223, by Senators Keiser, Pflug, Parlette, Kohl-Welles and Franklin

Authorizing emergency medical technicians to administer glucagon in emergency situations.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 6223 was advanced to third reading, the second

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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 Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6223.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6223 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

SENATE BILL NO. 6223, 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 12:29 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, January 28, 2008.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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