

NINETY THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, April 16, 2013

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

The Sergeant at Arms Color Guard consisting of Pages Lydia Winslow and Charlene Kwon, presented the Colors. Senator Kline offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

April 15, 2013

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE SENATE BILL NO. 5008,
- SENATE BILL NO. 5030,
- SENATE BILL NO. 5056,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5095,
- SENATE BILL NO. 5343,
- SUBSTITUTE SENATE BILL NO. 5396,
- SENATE BILL NO. 5496,
- SENATE BILL NO. 5593,
- SENATE BILL NO. 5770,
- SENATE BILL NO. 5806.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 15, 2013

MR. PRESIDENT:

The House has passed:

- SENATE BILL NO. 5149,
- SUBSTITUTE SENATE BILL NO. 5180,
- SENATE BILL NO. 5258,
- SUBSTITUTE SENATE BILL NO. 5362,
- SUBSTITUTE SENATE BILL NO. 5444,
- SUBSTITUTE SENATE BILL NO. 5559,
- SECOND ENGROSSED SENATE BILL NO. 5701.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Fain, Senator Carrell was excused.

MOTION

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

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Bailey moved that Ralph Munro, Gubernatorial Appointment No. 9147, be confirmed as a member of the Board of Trustees, Western Washington University.

Senators Bailey and Shin spoke in favor of passage of the motion.

APPOINTMENT OF RALPH MUNRO

The President declared the question before the Senate to be the confirmation of Ralph Munro, Gubernatorial Appointment No. 9147, as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Ralph Munro, Gubernatorial Appointment No. 9147, as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Carrell

Ralph Munro, Gubernatorial Appointment No. 9147, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Ranker moved that Joseph Meyer, Gubernatorial Appointment No. 9141, be confirmed as a member of the Board of Trustees, Western Washington University.

Senator Ranker spoke in favor of the motion.

APPOINTMENT OF JOSEPH MEYER

The President declared the question before the Senate to be the confirmation of Joseph Meyer, Gubernatorial Appointment No. 9141, as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Joseph Meyer, Gubernatorial Appointment No. 9141, as a member of the Board of Trustees, Western Washington University and the

appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

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

Absent: Senators Hargrove and Keiser

Excused: Senator Carrell

Joseph Meyer, Gubernatorial Appointment No. 9141, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Baumgartner moved that James Murphy, Gubernatorial Appointment No. 9149, be confirmed as a member of the Board of University.

Senator Baumgartner spoke in favor of the motion.

APPOINTMENT OF JAMES MURPHY

The President declared the question before the Senate to be the confirmation of James Murphy, Gubernatorial Appointment No. 9149, as a member of the Board of University.

The Secretary called the roll on the confirmation of James Murphy, Gubernatorial Appointment No. 9149, as a member of the Board of University and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Carrell

James Murphy, Gubernatorial Appointment No. 9149, having received the constitutional majority was declared confirmed as a member of the Board of University.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Ericksen moved that Susan Sharpe, Gubernatorial Appointment No. 9174, be confirmed as a member of the Board of Trustees, Western Washington University.

Senator Ericksen spoke in favor of the motion.

APPOINTMENT OF SUSAN SHARPE

The President declared the question before the Senate to be the confirmation of Susan Sharpe, Gubernatorial Appointment No. 9174, as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Susan Sharpe, Gubernatorial Appointment No. 9174, as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Carrell

Susan Sharpe, Gubernatorial Appointment No. 9174, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1383, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Fey, Kirby, Orwall, O'Ban, Roberts, Jinkins, Hope, Angel, Smith, Dahlquist, Wilcox and Kristiansen)

Modifying stalking and harassment protection order provisions.

The measure was read the second time.

MOTION

Senator Pearson moved that the following committee amendment by the Committee on Human Services & Corrections be adopted:

On page 19, after line 6, insert the following:

"The legislature respectfully requests that:"

On page 19, line 18, after "The" strike all material through "the"

On page 19, line 19, after "commission," insert "to the extent it is able,"

Senator Pearson spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 1383.

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

MOTION

Senator Conway moved that the following amendment by Senators Conway and Pearson be adopted:

On page 20, line 1, after "the" insert "Jennifer Paulson"

Senators Conway and Pearson spoke in favor of adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senators Conway and Pearson on page 20, line 1 to Engrossed Substitute House Bill No. 1383.

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

MOTION

On motion of Senator Pearson, the rules were suspended, Engrossed Substitute House Bill No. 1383 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 Pearson and Conway 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. 1383 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1383 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Chase

Excused: Senator Carrell

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1383 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.

MOTION

On motion of Senator Billig, Senator Chase was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1472, by House Committee on Education (originally sponsored by Representatives Hansen, Habib, Freeman and Magendanz)

Providing initiatives to improve and expand access to computer science education.

The measure was read the second time.

MOTION

Senator Dammeier moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Through such initiatives as grants for high-demand career and technical education programs and participation in the Microsoft

IT academy, the state has previously supported K-12 computer science education;

(b) However, even though there were nearly sixty-five thousand student enrollments in high school computer science courses in the 2011-12 school year, more than half of those enrollments were in beginning or exploratory courses. Fewer than twelve hundred students enrolled in AP computer science courses;

(c) National studies of K-12 computer science education indicate that, in part because computer science is not treated as an academic subject, students may not perceive advanced computer science as relevant to their future academic or career success;

(d) Public institutions of higher education have expanded capacity to grant certificates and degrees in computer science and related fields in response to high employer demand and high student demand. Additional expansion and improvement will be dependent on new resources, updated equipment, and the availability of expert faculty;

(e) Information technology job vacancies exist at all levels of training and education and across all industries that are critical to Washington's economy; and

(f) Strategies are needed to support additional opportunities for Washington students to have careers in the innovative, technology-based or technology-enhanced industries located in our state.

(2) Therefore the legislature intends to take additional steps to improve and expand access to computer science education, particularly in advanced courses that could prepare students for careers in the field.

Sec. 2. RCW 28A.230.097 and 2008 c 170 s 202 are each amended to read as follows:

(1) Each high school or school district board of directors shall adopt course equivalencies for career and technical high school courses offered to students in high schools and skill centers. A career and technical course equivalency may be for whole or partial credit. Each school district board of directors shall develop a course equivalency approval procedure. Boards of directors must approve AP computer science courses as equivalent to high school mathematics or science, and must denote on a student's transcript that AP computer science qualifies as a math-based quantitative course for students who take the course in their senior year. In order for a board to approve AP computer science as equivalent to high school mathematics, the student must be concurrently enrolled in or have successfully completed algebra II.

(2) Career and technical courses determined to be equivalent to academic core courses, in full or in part, by the high school or school district shall be accepted as meeting core requirements, including graduation requirements, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and title. Full or partial credit shall be recorded as appropriate. The high school or school district shall also issue and keep record of course completion certificates that demonstrate that the career and technical courses were successfully completed as needed for industry certification, college credit, or preapprenticeship, as applicable. The certificate shall be either part of the student's high school and beyond plan or the student's culminating project, as determined by the student. The office of the superintendent of public instruction shall develop and make available electronic samples of certificates of course completion."

Senator Dammeier 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 Ways & Means to Substitute House Bill No. 1472.

The motion by Senator Dammeier 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 "education;" strike the remainder of the title and insert "amending RCW 28A.230.097; and creating a new section."

MOTION

On motion of Senator Dammeier, the rules were suspended, Substitute House Bill No. 1472 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 Dammeier, McAuliffe and Mullet 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. 1472 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1472 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Hasegawa

Excused: Senators Carrell and Chase

SUBSTITUTE HOUSE BILL NO. 1472 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

SECOND SUBSTITUTE HOUSE BILL NO. 1642, by House Committee on Appropriations (originally sponsored by Representatives Pettigrew, Springer, Habib, Holy, Ryu and Magendanz)

Establishing policies to support academic acceleration for high school students.

The measure was read the second time.

MOTION

Senator Litzow moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that progress is being made in making dual high school and college credit courses available for students:

(a) Overall dual credit program enrollments increased by almost four percent between 2009 and 2012;

(b) The number of dual credit programs offered by Washington high schools increased by almost fifteen percent between the 2009-10 school year and the 2011-12 school year; and

(c) Dual credit program participation rates for low-income students increased more than fourteen percent between the 2009-10 school year and the 2011-12 school year.

(2) However, the legislature further finds that more can be done to promote academic acceleration for all students and eliminate barriers, real or perceived, that may prevent students from enrolling in rigorous advanced courses, including dual credit courses.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Each school district board of directors is encouraged to adopt an academic acceleration policy for high school students as provided under this section.

(2) Under an academic acceleration policy:

(a) The district automatically enrolls any student who meets the state standard on the high school statewide student assessment in the next most rigorous level of advanced courses offered by the high school. Students who successfully complete such an advanced course are then enrolled in the next most rigorous level of advanced course, with the objective that students will eventually be automatically enrolled in courses that offer the opportunity to earn dual credit for high school and college.

(b) The subject matter of the advanced courses in which the student is automatically enrolled depends on the content area or areas of the statewide student assessment where the student has met the state standard. Students who meet the state standard on both end-of-course mathematics assessments are considered to have met the state standard for high school mathematics. Students who meet the state standard in both reading and writing are eligible for enrollment in advanced courses in English, social studies, humanities, and other related subjects.

(c) The district must notify students and parents or guardians regarding the academic acceleration policy and the advanced courses available to students.

(d) The district must provide a parent or guardian with an opportunity to opt out of the academic acceleration policy and enroll a student in an alternative course.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Subject to funds appropriated specifically for this purpose, the academic acceleration incentive program is established as provided in this section. The intent of the legislature is that the funds awarded under the program be used to support teacher training, curriculum, technology, examination fees, and other costs associated with offering dual credit courses to high school students.

(2) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section on a competitive basis to provide one-time grants for high schools to expand the availability of dual credit courses. To be eligible for a grant, a school district must have adopted an academic acceleration policy as provided under section 2 of this act. In making grant awards, the office of the superintendent of public instruction must give priority to grants for high schools with a high proportion of low-income students and high schools seeking to develop new capacity for dual credit courses rather than proposing marginal expansion of current capacity.

(3) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section to school districts as an incentive award for each student who earned dual high school and college credit, as described under subsection (4) of this section, for courses offered by the district's high schools during the previous school year. School districts must

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distribute the award to the high schools that generated the funds. The award amount for low-income students eligible to participate in the federal free and reduced-price meals program who earn dual credits must be set at one hundred twenty-five percent of the base award for other students. A student who earns more than one dual credit in the same school year counts only once for the purposes of the incentive award.

(4) For the purposes of this section, the following students are considered to have earned dual high school and college credit in a course offered by a high school:

(a) Students who achieve a score of three or higher on an AP examination;

(b) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;

(c) Students who successfully complete a Cambridge advanced international certificate of education examination;

(d) Students who successfully complete a course through the college in the high school program under RCW 28A.600.290 and are awarded credit by the partnering institution of higher education; and

(e) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a tech prep course.

(5) If a high school provides access to online courses for students to earn dual high school and college credit at no cost to the student, such a course is considered to be offered by the high school. Students enrolled in the running start program under RCW 28A.600.300 do not generate an incentive award under this section.

(6) The office of the superintendent of public instruction shall report to the education policy committees and the fiscal committees of the legislature, by January 1st of each year, information about the demographics of the students earning dual credits in the schools receiving grants under this section for the prior school year. Demographic data shall be disaggregated pursuant to RCW 28A.300.042.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.300 RCW to read as follows:

In addition to data on student enrollment in dual credit courses, the office of the superintendent of public instruction shall collect and post on the Washington state report card web site the rates at which students earn college credit through a dual credit course, using the following criteria:

(1) Students who achieve a score of three or higher on an AP examination;

(2) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;

(3) Students who successfully complete a Cambridge advanced international certificate of education examination;

(4) Students who successfully complete a course through the college in the high school program under RCW 28A.600.290 and are awarded credit by the partnering institution of higher education; and

(5) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a tech prep course; and

(6) Students who successfully complete a course through the running start program under RCW 28A.600.300 and are awarded credit by the institution of higher education.

NEW SECTION. Sec. 5. If specific funding for purposes of section 3 of this act, referencing section 3 of this act by bill or chapter and section number, is not provided by June 30, 2013, in the omnibus operating appropriations act, section 3 of 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 Ways & Means to Second Substitute House Bill No. 1642.

The motion by Senator Litzow 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 "students;" strike the remainder of the title and insert "adding new sections to chapter 28A.320 RCW; adding a new section to chapter 28A.300 RCW; and creating new sections."

MOTION

On motion of Senator Litzow, the rules were suspended, Second Substitute House Bill No. 1642 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 Litzow and McAuliffe 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. 1642 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1642 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 Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Cleveland, Conway, Dammeier, Darneille, Eide, Erickson, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senators Carrell and Chase

SECOND SUBSTITUTE HOUSE BILL NO. 1642 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. 1200, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Wilcox, Takko, Lytton, Klippert, Van De Wege, Nealey, Stanford, Short and Smith)

Concerning the labeling of seafood.

The measure was read the second time.

MOTION

Senator Pearson moved that the following committee striking amendment by the Committee on Natural Resources & Parks be not adopted:

Strike everything after the enacting clause and insert the following:

Sec. 1. RCW 69.04.060 and 2003 c 53 s 314 are each amended to read as follows:

Except as otherwise provided in this chapter, any person who violates any provision of RCW 69.04.040 is guilty of a misdemeanor and shall on conviction thereof be subject to the following penalties:

(1) A fine of not more than two hundred dollars; or

(2) If the violation is committed after a conviction of such person under this section has become final, imprisonment for not more than thirty days, or a fine of not more than five hundred dollars, or both such imprisonment and fine.

Sec. 2. RCW 69.04.928 and 2002 c 301 s 11 are each amended to read as follows:

The department of agriculture ~~((must))~~ may:

(1) Develop a pamphlet that generally describes the labeling requirements for seafood as set forth in this chapter;

(2) Provide ~~((an adequate quantity of))~~ to the department of fish and wildlife a website link to the pamphlet ~~((s to the department of fish and wildlife to distribute with the issuance of a direct retail endorsement under RCW 77.65.510)); and~~

(3) Make the pamphlet available to holders of any license associated with buying and selling fish or shellfish under chapter 77.65 RCW.

Sec. 3. RCW 69.04.932 and 1993 c 282 s 2 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout ~~((RCW 69.04.933 through 69.04.935))~~ this chapter unless the context clearly requires otherwise.

(1) "Commercially caught" means wild or hatchery-raised salmon harvested in the wild by commercial fishers. The term does not apply to farmed fish raised exclusively by private sector aquaculture.

(2) "Food fish" means fresh or saltwater finfish and other forms of aquatic animal life other than crustaceans, mollusks, birds, and mammals where the animal life is intended for human consumption.

(3) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in ~~((Title 77))~~ RCW 77.08.020, and includes:

SCIENTIFIC NAME	COMMON NAME
<i>Oncorhynchus tshawytscha</i>	Chinook salmon or king salmon
<i>Oncorhynchus kisutch</i>	Coho salmon or silver salmon
<i>Oncorhynchus keta</i>	Chum or "keta" salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye or "red" salmon
<i>Salmo salar</i> (in other than its landlocked form)	Atlantic salmon

~~((2))~~ "Commercially caught" means salmon harvested by commercial fishers. (4) "Shellfish" means crustaceans and all mollusks where the animal life is intended for human consumption.

Sec. 4. RCW 69.04.933 and 1993 c 282 s 3 are each amended to read as follows:

~~((With the exception of a commercial fisher engaged in sales of fish to a fish buyer, no person may sell))~~ (1) It is unlawful to knowingly sell or offer for sale at wholesale or retail any fresh ~~((or))~~,

frozen ~~((salmon)), or processed food fish or ~~((cultured aquatic salmon))~~ shellfish without identifying for the buyer at the point of sale the species of ~~((salmon))~~ food fish or shellfish by its common name ~~((to the buyer at the point of sale)),~~ such that the buyer can make an informed purchasing decision ~~((in purchasing))~~ for his or her protection, health, and safety. ~~((A person knowingly violating this section is guilty of misbranding under this chapter. A person who receives misleading or erroneous information about the species of salmon and subsequently inaccurately identifies salmon shall not be guilty of misbranding. This section shall not apply to salmon that is minced, pulverized, coated with batter, or breaded.))~~~~

(2) It is unlawful to knowingly label or offer for sale any food fish designated as halibut, with or without additional descriptive words, unless the food fish product is *Hippoglossus hippoglossus* or *Hippoglossus stenolepis*.

(3) This section does not apply to salmon that is minced, pulverized, coated with batter, or breaded.

(4) This section does not apply to a commercial fisher properly licensed under chapter 77.65 RCW and engaged in sales of fish to a fish buyer.

(5) A violation of this section constitutes misbranding under section 7 of this act and is punishable as a misdemeanor, gross misdemeanor, or felony depending on the fair market value of the fish or shellfish involved in the violation.

(6)(a) The common names for salmon species are as listed in RCW 69.04.932.

(b) The common names for all other food fish and shellfish are the common names for food fish and shellfish species as defined by rule of the director. If the common name for a species is not defined by rule of the director, then the common name is the acceptable market name or common name as provided in the United States food and drug administration's publication "Seafood list - FDA's guide to acceptable market names for seafood sold in interstate commerce," as the publication existed on the effective date of this section.

(7) For the purposes of this section, "processed" means food fish or shellfish processed by heat for human consumption, such as food fish or shellfish that is kippered, smoked, boiled, canned, cleaned, portioned, or prepared for sale or attempted sale for human consumption.

(8) Nothing in this section precludes using additional descriptive language or trade names to describe food fish or shellfish as long as the labeling requirements in this section are met. Additionally, any person using the common name "keta" to identify the species *Oncorhynchus keta* as authorized under subsection (6) of this section must also use the additional descriptive term "dog salmon."

Sec. 5. RCW 69.04.934 and 2003 c 39 s 29 are each amended to read as follows:

~~((With the exception of a commercial fisher engaged in sales of fish to a fish buyer, no person may sell at wholesale or retail any fresh or frozen))~~

(1) It is unlawful to knowingly sell or offer for sale at wholesale or retail any fresh, frozen, or processed salmon without identifying private sector cultured aquatic salmon ~~((without identifying the))~~ or salmon products as farm-raised salmon ~~((or~~ ~~((2)))~~, or identifying commercially caught salmon ~~((designated as food fish under Title 77 RCW without identifying the))~~ or salmon products as commercially caught salmon.

(2) Identification of the products under subsection (s) (1) ~~((and (2)))~~ of this section ~~((shall))~~ must be made to the buyer at the point of sale such that the buyer can make an informed purchasing decision ~~((in purchasing))~~ for his or her protection, health, and safety.

(3) A ~~((person knowingly violating))~~ violation of this section ~~((is guilty of))~~ constitutes misbranding under ~~((this chapter. A person~~

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~~who receives misleading or erroneous information about whether the salmon is farm raised or commercially caught, and subsequently inaccurately identifies salmon shall not be guilty of misbranding))~~ section 7 of this act and is punishable as a misdemeanor, gross misdemeanor, or felony depending on the fair market value of the fish or shellfish involved in the violation.

(4) This section ~~((shall))~~ does not apply to salmon that is minced, pulverized, coated with batter, or breaded.

(5) This section does not apply to a commercial fisher properly licensed under chapter 77.65 RCW and lawfully engaged in the sale of fish to a fish buyer.

(6) Nothing in this section precludes using additional descriptive language or trade names to describe food fish or shellfish as long as the labeling requirements of this section are met.

Sec. 6. RCW 69.04.935 and 1994 c 264 s 39 are each amended to read as follows:

To promote honesty and fair dealing for consumers and to protect public health and safety, the director, in consultation with the director of the department of fish and wildlife, ~~((shall))~~ may adopt rules as necessary to:

(1) ~~((Fixing and establishing))~~ Establish and implement a reasonable definition and identification standard ~~((of identity for salmon for purposes of identifying and selling salmon))~~ for species of food fish and shellfish that are sold for human consumption;

(2) ~~((Enforcing RCW 69.04.933 and 69.04.934))~~ Provide procedures for enforcing this chapter's food fish and shellfish labeling requirements and misbranding prohibitions.

NEW SECTION. Sec. 7. A new section is added to chapter 69.04 RCW to read as follows:

(1) A person is guilty of unlawful misbranding of food fish or shellfish in the third degree if the person commits an act that violates RCW 69.04.933 or 69.04.934, and the misbranding involves food fish or shellfish with a fair market value up to five hundred dollars. Unlawful misbranding of food fish or shellfish in the third degree is a misdemeanor.

(2) A person is guilty of unlawful misbranding of food fish or shellfish in the second degree if the person commits an act that violates RCW 69.04.933 or 69.04.934, and the misbranding involves food fish or shellfish with a fair market value of five hundred dollars or more, up to five thousand dollars. Unlawful misbranding of food fish or shellfish in the second degree is a gross misdemeanor.

(3) A person is guilty of unlawful misbranding of food fish or shellfish in the first degree if the person commits an act that violates RCW 69.04.933 or 69.04.934, and the misbranding involves food fish or shellfish with a fair market value of five thousand dollars or more. Unlawful misbranding of food fish or shellfish in the first degree is a class C felony.

Sec. 8. RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are each reenacted and amended to read as follows:

TABLE 2

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)

	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)
	Explosive devices prohibited (RCW 70.74.180)
	Hit and Run--Death (RCW 46.52.020(4)(a))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Robbery 1 (RCW 9A.56.200)
	Sexual Exploitation (RCW 9.68A.040)
VIII	Arson 1 (RCW 9A.48.020)

Commercial Sexual Abuse of a Minor (RCW 9.68A.100)	Rape of a Child 3 (RCW 9A.44.079)
Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)	Theft of a Firearm (RCW 9A.56.300)
Manslaughter 2 (RCW 9A.32.070)	Unlawful Storage of Ammonia (RCW 69.55.020)
Promoting Prostitution 1 (RCW 9A.88.070)	V Abandonment of Dependent Person 2 (RCW 9A.42.070)
Theft of Ammonia (RCW 69.55.010)	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)	Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
VII Burglary 1 (RCW 9A.52.020)	Child Molestation 3 (RCW 9A.44.089)
Child Molestation 2 (RCW 9A.44.086)	Criminal Mistreatment 2 (RCW 9A.42.030)
Civil Disorder Training (RCW 9A.48.120)	Custodial Sexual Misconduct 1 (RCW 9A.44.160)
Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))	Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
Drive-by Shooting (RCW 9A.36.045)	Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)	Driving While Under the Influence (RCW 46.61.502(6))
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))	Extortion 1 (RCW 9A.56.120)
Introducing Contraband 1 (RCW 9A.76.140)	Extortionate Extension of Credit (RCW 9A.82.020)
Malicious placement of an explosive 3 (RCW 70.74.270(3))	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)	Incest 2 (RCW 9A.64.020(2))
Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))	Kidnapping 2 (RCW 9A.40.030)
Unlawful Possession of a Firearm in the first degree (RCW 9A.41.040(1))	Perjury 1 (RCW 9A.72.020)
Use of a Machine Gun in Commission of a Felony (RCW 9A.41.225)	Persistent prison misbehavior (RCW 9.94.070)
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)	Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))	Possession of a Stolen Firearm (RCW 9A.56.310)
Bribery (RCW 9A.68.010)	Rape 3 (RCW 9A.44.060)
Incest 1 (RCW 9A.64.020(1))	Rendering Criminal Assistance 1 (RCW 9A.76.070)
Intimidating a Judge (RCW 9A.72.160)	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))	Sexually Violating Human Remains (RCW 9A.44.105)
Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))	Stalking (RCW 9A.46.110)
	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)

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IV Arson 2 (RCW 9A.48.030)

Assault 2 (RCW 9A.36.021)

Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))

Assault by Watercraft (RCW 79A.60.060)

Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)

Cheating 1 (RCW 9.46.1961)

Commercial Bribery (RCW 9A.68.060)

Counterfeiting (RCW 9.16.035(4))

Endangerment with a Controlled Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)

Hit and Run--Injury (RCW 46.52.020(4)(b))

Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)

Influencing Outcome of Sporting Event (RCW 9A.82.070)

Malicious Harassment (RCW 9A.36.080)

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

Unlicensed practice as an insurance professional (RCW 48.17.063(2))

Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

Vehicular Assault, by being under the influence of intoxicating liquor or

any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))

Willful Failure to Return from Furlough (RCW 72.66.060)

III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))

Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))

Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))

Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Organized Retail Theft 1 (RCW 9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful Misbranding of Food Fish or Shellfish 1 (section 7(3) of this act)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
- Unlawful Use of a Nondesigned Vessel (RCW 77.15.530(4))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
- Escape from Community Custody (RCW 72.09.310)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.132)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Organized Retail Theft 2 (RCW 9A.56.350(3))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Possession of a Stolen Vehicle (RCW 9A.56.068)
- Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
- Theft 1 (RCW 9A.56.030)
- Theft of a Motor Vehicle (RCW 9A.56.065)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
- Voyeurism (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
- Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
- Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

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- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
- Unlawful Production of Payment Instruments (RCW 9A.56.320)
- Unlawful Release of Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))
- Unlawful Trafficking in Food Stamps (RCW 9.91.142)
- Unlawful Use of Food Stamps (RCW 9.91.144)
- Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))
- Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3))
- Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))

NEW SECTION. **Sec. 9.** RCW 69.04.315 (Halibut--Misbranding by failure to show proper name) and 1967 ex.s. c 79 s 1 are each repealed."

On page 1, line 1 of the title, after "seafood;" strike the remainder of the title and insert "amending RCW 69.04.060, 69.04.928, 69.04.932, 69.04.933, 69.04.934, and 69.04.935; reenacting and amending RCW 9.94A.515; adding a new section to chapter 69.04 RCW; repealing RCW 69.04.315; and prescribing penalties."

Senators Pearson and Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pearson to not adopt the committee striking amendment by the Committee on Natural Resources & Parks to Substitute House Bill No. 1200.

The motion by Senator Pearson carried and the committee striking amendment was not adopted by voice vote.

MOTION

On motion of Senator Pearson, the rules were suspended, Substitute House Bill No. 1200 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pearson and Rolfes 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. 1200.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1200 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

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

Excused: Senators Carrell and Chase

SUBSTITUTE HOUSE BILL NO. 1200, 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. 1466, by House Committee on Capital Budget (originally sponsored by Representatives Haigh, Warnick, Dunshee, Fey, Kristiansen and Reykdal)

Revising alternative public works contracting procedures.

The measure was read the second time.

MOTION

Senator Dammeier moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 39.10.210 and 2010 1st sp.s. c 36 s 6014 are each reenacted and amended to read as follows:

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

(1) "Alternative public works contracting procedure" means the design-build, general contractor/construction manager, and job order contracting procedures authorized in RCW 39.10.300, 39.10.340, and 39.10.420, respectively.

(2) "Board" means the capital projects advisory review board.

(3) "Certified public body" means a public body certified to use design-build or general contractor/construction manager contracting procedures, or both, under RCW 39.10.270.

(4) "Committee," unless otherwise noted, means the project review committee.

(5) "Design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

(6) "Disadvantaged business enterprise" means any business entity certified with the office of minority and women's business enterprises under chapter 39.19 RCW.

(7) "General contractor/construction manager" means a firm with which a public body has selected ((and negotiated a maximum allowable construction cost)) to provide services during the design phase and negotiated a maximum allowable construction cost to act as construction manager and general contractor during the construction phase.

~~((7))~~ (8) "Job order contract" means a contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

~~((8))~~ (9) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

~~((9))~~ (10) "Maximum allowable construction cost" means the maximum cost of the work to construct the project including a percentage for risk contingency, negotiated support services, and approved change orders.

~~((10))~~ (11) "Negotiated support services" means items a general contractor would normally manage or perform on a construction project including, but not limited to surveying, hoisting, safety enforcement, provision of toilet facilities, temporary heat, cleanup, and trash removal, and that are negotiated as part of the maximum allowable construction cost.

~~((11))~~ (12) "Percent fee" means the percentage amount to be earned by the general contractor/construction manager as overhead and profit.

~~((12))~~ (13) "Public body" means any general or special purpose government in the state of Washington, including but not limited to state agencies, institutions of higher education, counties, cities, towns, ports, school districts, and special purpose districts(~~;~~ provided that for the 2009-2011 fiscal biennium, the definition of public body for this chapter does not include public bodies funded in section 1012, chapter 36, Laws of 2010 1st sp. sess. if alternative requirements or procedures of federal law or regulations are authorized)).

~~((13))~~ (14) "Public works project" means any work for a public body within the definition of "public work" in RCW 39.04.010.

~~((14))~~ (15) "Small business entity" means a small business as defined in RCW 39.26.010.

~~(16)~~ (16) "Total contract cost" means the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, and the percent fee on the negotiated maximum allowable construction cost.

~~((15))~~ (17) "Total project cost" means the cost of the project less financing and land acquisition costs.

~~((16))~~ (18) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor. The prices may include: All the costs of materials; labor; equipment; overhead, including bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.

~~((17))~~ (19) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

Sec. 2. RCW 39.10.220 and 2007 c 494 s 102 are each amended to read as follows:

(1) The board is created in the department of (~~general administration~~) enterprise services to provide an evaluation of public capital projects construction processes, including the impact of contracting methods on project outcomes, and to advise the legislature on policies related to public works delivery methods.

(2) Members of the board are appointed as follows:

(a) (~~The board shall consist of the following members appointed by the governor:~~) Two representatives from construction general contracting; one representative from the architectural profession; one representative from the engineering profession; two representatives from construction specialty subcontracting; two representatives from construction trades labor organizations; one representative from the office of minority and women's business enterprises; one representative from a higher education institution; one representative from the department of (~~general administration~~) enterprise services; one individual representing Washington cities; two representatives from private industry; and one representative of a domestic insurer authorized to write surety bonds for contractors in Washington state, each appointed by the governor. All appointed members must be knowledgeable about public works contracting procedures. If a vacancy occurs, the governor shall fill the vacancy for the unexpired term:

(b) (~~Three members shall be positions representing different local public owners, selected by the association of Washington cities:~~) One member representing counties, selected by the

Washington state association of counties(~~and the Washington public ports association, respectively~~);

(c) (~~One member shall be a representative from the public hospital districts, selected by the association of Washington public hospital districts.~~

~~(d))~~ One member representing public ports, selected by the Washington public ports association;

(d) One member representing public hospital districts, selected by the association of Washington public hospital districts;

~~(e)~~ One member (~~shall be a representative from~~) representing school districts, selected by the Washington state school directors' association(~~;~~); and

~~((e) The board shall include)~~ (f) Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives, and two members of the senate, one from each major caucus, appointed by the president of the senate. Legislative members are nonvoting.

(3) Members selected under subsection (2)(a) of this section shall serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term.

(4) The board chair is selected from among the appointed members by the majority vote of the voting members.

(5) Legislative members of the board shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members of the board, project review committee members, and (~~subcommittee~~) committee chairs shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) (~~If a vacancy occurs of the appointive members of the board, the governor shall fill the vacancy for the unexpired term.~~) Vacancies are filled in the same manner as appointed. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(7) The board shall meet as often as necessary.

(8) Board members are expected to consistently attend board meetings. The chair of the board may ask the governor to remove any member who misses more than two meetings in any calendar year without cause.

(9) The department of (~~general administration~~) enterprise services shall provide staff support as may be required for the proper discharge of the function of the board.

(10) The board may establish (~~subcommittees~~) committees as it desires and may invite nonmembers of the board to serve as committee members.

(11) The board shall encourage participation from persons and entities not represented on the board.

Sec. 3. RCW 39.10.230 and 2010 1st sp.s. c 21 s 3 are each amended to read as follows:

The board has the following powers and duties:

(1) Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods;

(2) Evaluate the use of existing contracting procedures and the potential future use of other alternative contracting procedures including competitive negotiation contracts;

(3) Submit recommendations to the appropriate committees of the legislature evaluating alternative contracting procedures that are not authorized under this chapter;

(4) Appoint members of (~~the~~) committees; and

(5) Develop and administer questionnaires designed to provide quantitative and qualitative data on alternative public works contracting procedures on which evaluations are based.

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Sec. 4. RCW 39.10.240 and 2007 c 494 s 104 are each amended to read as follows:

(1) The board shall establish a project review committee to review and approve public works projects using the design-build and general contractor/construction manager contracting procedures authorized in RCW 39.10.300 and 39.10.340 and to certify public bodies as provided in RCW 39.10.270.

(2) The board shall, by a majority vote of the board, appoint persons to the committee who are knowledgeable in the use of the design-build and general contractor/construction manager contracting procedures. Appointments must represent a balance among the industries and public owners on the board listed in RCW 39.10.220.

~~(a) (When making initial appointments to the committee, the board shall consider for appointment former members of the school district project review board and the public hospital district project review board.~~

~~(b))~~ Each member of the committee shall be appointed for a term of three years. However, for initial appointments, the board shall stagger the appointment of committee members so that the first members are appointed to serve terms of one, two, or three years from the date of appointment. Appointees may be reappointed to serve more than one term.

~~(c))~~ (b) The committee shall, by a majority vote, elect a chair and vice chair for the committee.

~~(d))~~ (c) The committee chair may select a person or persons on a temporary basis as a nonvoting member if project specific expertise is needed to assist in a review.

(3) The chair of the committee, in consultation with the vice chair, may appoint one or more panels of at least six committee members to carry out the duties of the committee. Each panel shall have balanced representation of the private and public sector representatives serving on the committee.

(4) Any member of the committee directly or indirectly affiliated with a submittal before the committee must recuse himself or herself from the committee consideration of that submittal.

(5) Any person who sits on the committee or panel is not precluded from subsequently bidding on or participating in projects that have been reviewed by the committee.

(6) The committee shall meet as often as necessary to ensure that certification and approvals are completed in a timely manner.

Sec. 5. RCW 39.10.250 and 2009 c 75 s 2 are each amended to read as follows:

The committee shall:

(1) Certify, or ~~(re-certify)~~ renew certification for, public bodies ~~((for a period of three years))~~ to use ~~((the))~~ design-build or general contractor/construction manager contracting procedures, or both ~~(; contracting procedures for projects with a total project cost of ten million dollars or more))~~;

(2) Review and approve the use of the design-build or general contractor/construction manager contracting procedures on a project by project basis for public bodies that are not certified under RCW 39.10.270;

~~(3) ((Review and approve the use of the general contractor/construction manager contracting procedure by certified public bodies for projects with a total project cost under ten million dollars;~~

~~(4))~~ Review and approve not more than ~~((ten))~~ fifteen projects using the design-build contracting procedure by ~~((certified and))~~ noncertified public bodies for projects that have a total project cost between two million and ten million dollars. Projects must meet the criteria in RCW 39.10.300(1). Where possible, the committee shall approve projects among multiple public bodies. ~~((In June 2010))~~ At least annually, the committee shall report to the board

regarding the committee's review procedure of these projects and its recommendations for further use; and

~~((5))~~ (4) Review and approve not more than two design-build demonstration projects that include procurement of operations and maintenance services for a period longer than three years.

Sec. 6. RCW 39.10.260 and 2007 c 494 s 106 are each amended to read as follows:

(1) The committee shall hold regular public meetings to carry out its duties as described in RCW 39.10.250. Committee meetings are subject to chapter 42.30 RCW.

(2) The committee shall publish notice of its public meetings at least twenty days before the meeting in a legal newspaper circulated in the area where the public body seeking certification is located, or where each of the proposed projects under consideration will be constructed. All meeting notices must be posted on the committee's web site.

(3) The meeting notice must identify the public body that is seeking certification or project approval, and where applicable, a description of projects to be considered at the meeting. The notice must indicate when, where, and how the public may present comments regarding the committee's certification of a public body or approval of a project. Information submitted by a public body to be reviewed at the meeting shall be available on the committee's web site at the time the notice is published.

(4) The committee must allow for public comment on the appropriateness of certification of a public body or on the appropriateness of the use of the proposed contracting procedure and the qualifications of a public body to use the contracting procedure. The committee shall receive and record both written and oral comments at the public ~~((hearing))~~ meeting.

Sec. 7. RCW 39.10.270 and 2009 c 75 s 3 are each amended to read as follows:

(1) A public body may apply for certification to use the design-build or general contractor/construction manager contracting procedure, or both. Once certified, a public body may use the contracting procedure for which it is certified on individual projects ~~((with a total project cost over ten million dollars))~~ without seeking committee approval ~~((The certification period is))~~ for a period of three years. Public bodies certified to use the design-build procedure are limited to no more than five projects with a total project cost between two and ten million dollars during the certification period. A public body seeking certification must submit to the committee an application in a format and manner as prescribed by the committee. The application must include a description of the public body's qualifications, its capital plan during the certification period, and its intended use of alternative contracting procedures.

(2) A public body seeking certification for the design-build procedure must demonstrate successful management of at least one design-build project within the previous five years. A public body seeking certification for the general contractor/construction manager procedure must demonstrate successful management of at least one general contractor/construction manager project within the previous five years.

(3) To certify a public body, the committee shall determine that the public body:

(a) Has the necessary experience and qualifications to determine which projects are appropriate for using alternative contracting procedures;

(b) Has the necessary experience and qualifications to carry out the alternative contracting procedure including, but not limited to: (i) Project delivery knowledge and experience; (ii) personnel with appropriate construction experience; (iii) a management plan and rationale for its alternative public works projects; (iv) demonstrated success in managing public works projects; (v) the ability to properly manage its capital facilities plan including, but not limited

to, appropriate project planning and budgeting experience; and (vi) the ability to meet requirements of this chapter; and

(c) Has resolved any audit findings on previous public works projects in a manner satisfactory to the committee.

(4) The committee shall, if practicable, make its determination at the public meeting during which an application for certification is reviewed. Public comments must be considered before a determination is made. Within ten business days of the public meeting, the committee shall provide a written determination to the public body, and make its determination available to the public on the committee's web site.

(5) The committee may revoke any public body's certification upon a finding, after a public hearing, that its use of design-build or general contractor/construction manager contracting procedures no longer serves the public interest.

(6) The committee may renew the certification of a public body for ~~((one))~~ additional three-year periods. The public body must submit an application for recertification at least three months before the initial certification expires. The application shall include updated information on the public body's ~~((capital plan for the next three years, its intended use of the procedures))~~ experience and current staffing with the procedure it is applying to renew, and any other information requested in advance by the committee. The committee must review the application for recertification at a meeting held before expiration of the applicant's initial certification period. A public body must reapply for certification under the process described in subsection (1) of this section once the period of recertification expires.

(7) Certified public bodies must submit project data information as required in RCW 39.10.320 and 39.10.350.

Sec. 8. RCW 39.10.280 and 2007 c 494 s 108 are each amended to read as follows:

(1) A public body not certified under RCW 39.10.270 must apply for approval from the committee to use the design-build or general contractor/construction manager contracting procedure on a project. A public body seeking approval must submit to the committee an application in a format and manner as prescribed by the committee. The application must include a description of the public body's qualifications, a description of the project, and its intended use of alternative contracting procedures.

(2) To approve a proposed project, the committee shall determine that:

(a) The alternative contracting procedure will provide a substantial fiscal benefit or the use of the traditional method of awarding contracts in lump sum to the low responsive bidder is not practical for meeting desired quality standards or delivery schedules;

(b) The proposed project meets the requirements for using the alternative contracting procedure as described in RCW 39.10.300 or 39.10.340;

(c) The public body has the necessary experience or qualified team to carry out the alternative contracting procedure including, but not limited to: (i) Project delivery knowledge and experience; (ii) sufficient personnel with construction experience to administer the contract; (iii) a written management plan that shows clear and logical lines of authority; (iv) the necessary and appropriate funding and time to properly manage the job and complete the project; (v) continuity of project management team, including personnel with experience managing projects of similar scope and size to the project being proposed; and (vi) necessary and appropriate construction budget;

(d) For design-build projects, ~~((construction))~~ public body personnel ~~((independent of the design-build team))~~ or consultants are knowledgeable in the design-build process and are able to oversee and administer the contract; and

(e) The public body has resolved any audit findings related to previous public works projects in a manner satisfactory to the committee.

(3) The committee shall, if practicable, make its determination at the public meeting during which a submittal is reviewed. Public comments must be considered before a determination is made.

(4) Within ten business days after the public meeting, the committee shall provide a written determination to the public body, and make its determination available to the public on the committee's web site. If the committee fails to make a written determination within ten business days of the public meeting, the request of the public body to use the alternative contracting procedure on the requested project shall be deemed approved.

~~((The requirements of subsection (1) of this section also apply to certified public bodies seeking to use the general contractor/construction manager contracting procedure on projects with a total project cost of less than ten million dollars.~~

~~((6))~~ Failure of the committee to meet within sixty calendar days of a public body's application to use an alternative contracting procedure on a project shall be deemed an approval of the application.

Sec. 9. RCW 39.10.300 and 2009 c 75 s 4 are each amended to read as follows:

(1) Subject to the ~~((process))~~ requirements in RCW 39.10.250, 39.10.270, or 39.10.280, public bodies may utilize the design-build procedure for public works projects in which the total project cost is over ten million dollars and where:

(a) The ~~((design and construction activities, technologies, or schedule to be used are highly specialized and a design-build approach is critical in developing the construction methodology or implementing the proposed technology))~~ construction activities are highly specialized and a design-build approach is critical in developing the construction methodology; or

(b) The ~~((project design is repetitive in nature and is an incidental part of the installation or construction))~~ projects selected provide opportunity for greater innovation or efficiencies between the designer and the builder; or

(c) ~~((Regular interaction with and feedback from facilities users and operators during design is not critical to an effective facility design.))~~ Significant savings in project delivery time would be realized.

(2) Subject to the process in RCW 39.10.270 or 39.10.280, public bodies may use the design-build procedure for parking garages, regardless of cost.

(3) The design-build procedure may be used for the construction or erection of portable facilities as defined in WAC 392-343-018, preengineered metal buildings, or not more than ten prefabricated modular buildings per installation site, regardless of cost and is not subject to approval by the committee.

(4) Except for utility projects and approved demonstration projects, the design-build procedure may not be used to procure operations and maintenance services for a period longer than three years. State agency projects that propose to use the design-build-operate-maintain procedure shall submit cost estimates for the construction portion of the project consistent with the office of financial management's capital budget requirements. Operations and maintenance costs must be shown separately and must not be included as part of the capital budget request.

(5) Subject to the process in RCW 39.10.280, public bodies may use the design-build procedure for public works projects in which the total project cost is between two million and ten million dollars and that meet one of the criteria in subsection (1)(a), (b), or (c) of this section.

(6) Subject to the process in RCW 39.10.280, a public body may seek committee approval for a design-build demonstration project

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that includes procurement of operations and maintenance services for a period longer than three years.

Sec. 10. RCW 39.10.320 and 2007 c 494 s 203 are each amended to read as follows:

(1) A public body utilizing the design-build contracting procedure shall provide ~~((for))~~:

(a) Reasonable budget contingencies totaling not less than five percent of the anticipated contract value;

(b) ~~((Employment of))~~ Staff or consultants with expertise and prior experience in the management of comparable projects;

(c) Contract documents that include alternative dispute resolution procedures to be attempted prior to the initiation of litigation;

(d) Submission of project information, as required by the board; and

(e) Contract documents that require the contractor, subcontractors, and designers to submit project information required by the board.

(2) A public body utilizing the design-build contracting procedure may provide incentive payments to contractors for early completion, cost savings, or other goals if such payments are identified in the request for proposals.

Sec. 11. RCW 39.10.330 and 2009 c 75 s 5 are each amended to read as follows:

(1) Contracts for design-build services shall be awarded through a competitive process using public solicitation of proposals for design-build services. The public body shall publish at least once in a legal newspaper of general circulation published in, or as near as possible to, that part of the county in which the public work will be done, a notice of its request for qualifications from proposers for design-build services, and the availability and location of the request for proposal documents. The request for qualifications documents shall include:

(a) A general description of the project that provides sufficient information for proposers to submit qualifications;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications to be required of the proposer including, but not limited to, submission of the proposer's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and finalists' proposals, including evaluation factors and the relative weight of factors and any specific forms to be used by the proposers;

(i) Evaluation factors for request for qualifications shall include, but not be limited to, technical qualifications, such as specialized experience and technical competence; capability to perform; past performance of the proposers' team, including the architect-engineer and construction members; and other appropriate factors. Evaluation factors may also include: (A) The proposer's past performance in utilization of small business entities; and (B) disadvantaged business enterprises. Cost or price-related factors are not permitted in the request for qualifications phase;

(ii) Evaluation factors for finalists' proposals shall include, but not be limited to, the factors listed in (d)(i) of this subsection, as well as technical approach design concept; ~~((proposal price))~~ ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected workloads of the firm; ~~((and))~~ location; and cost or price-related factors that may include operating costs. The public body may also consider a proposer's outreach plan to include small business entities and disadvantaged business enterprises as subcontractor and suppliers for the project. Alternatively, if the public body determines that all finalists will be capable of producing a design that adequately meets project requirements, the public body

may award the contract to the firm that submits the responsive proposal with the lowest price;

(e) Protest procedures including time limits for filing a protest, which in no event may limit the time to file a protest to fewer than four business days from the date the proposer was notified of the selection decision;

~~___~~ (f) The form of the contract to be awarded;

~~((#))~~ (g) The ~~((amount))~~ honorarium to be paid to finalists submitting responsive proposals and who are not awarded a design-build contract;

~~((#))~~ (h) The schedule for the procurement process and the project; and

~~((#))~~ (i) Other information relevant to the project.

(2) The public body shall establish an evaluation committee to evaluate the responses to the request for qualifications based solely on the factors, weighting, and process identified in the request for qualifications and any addenda issued by the public body. Based on the evaluation committee's findings, the public body shall select not more than five responsive and responsible finalists to submit proposals. The public body may, in its sole discretion, reject all proposals and shall provide its reasons for rejection in writing to all proposers.

(3) The public body must notify all proposers of the finalists selected to move to the next phase of the selection process. The process may not proceed to the next phase until two business days after all proposers are notified of the committee's selection decision. At the request of a proposer not selected as a finalist, the public body must provide the requesting proposer with a scoring summary of the evaluation factors for its proposal. Proposers filing a protest on the selection of the finalists must file the protest in accordance with the published protest procedures. The selection process may not advance to the next phase of selection until two business days after the final protest decision is transmitted to the protestor.

~~___~~ (4) Upon selection of the finalists, the public body shall issue a request for proposals to the finalists, which shall provide the following information:

(a) A detailed description of the project including programmatic, performance, and technical requirements and specifications; functional and operational elements; minimum and maximum net and gross areas of any building; and, at the discretion of the public body, preliminary engineering and architectural drawings; and

(b) The target budget for the design-build portion of the project.

~~((#))~~ (5) The public body shall establish an evaluation committee to evaluate the proposals submitted by the finalists. Design-build contracts shall be awarded using the procedures in (a) or (b) of this subsection. The public body must identify in the request for qualifications which procedure will be used.

(a) The finalists' proposals shall be evaluated and scored based solely on the factors, weighting, and process identified in the initial request for qualifications and in any addenda published by the public body. Public bodies may request best and final proposals from finalists. The public body ~~((shall))~~ may initiate negotiations with the firm submitting the highest scored proposal. If the public body is unable to execute a contract with the firm submitting the highest scored proposal, negotiations with that firm may be suspended or terminated and the public body may proceed to negotiate with the next highest scored firm. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

(b) If the public body determines that all finalists are capable of producing a design that adequately meets project requirements, the public body may award the contract to the firm that submits the responsive proposal with the lowest price.

~~((5))~~ (6) The public body shall notify all finalists of the selection decision and make a selection summary of the final proposals available to all proposers within two business days of such notification. If the public body receives a timely written protest from a finalist firm, the public body may not execute a contract until two business days after the final protest decision is transmitted to the protestor. The protestor must submit its protest in accordance with the published protest procedures.

____(7) The firm awarded the contract shall provide a performance and payment bond for the contracted amount.

(8) The public body shall provide appropriate honorarium payments to finalists submitting responsive proposals that are not awarded a design-build contract. Honorarium payments shall be sufficient to generate meaningful competition among potential proposers on design-build projects. In determining the amount of the honorarium, the public body shall consider the level of effort required to meet the selection criteria.

Sec. 12. RCW 39.10.340 and 2007 c 494 s 301 are each amended to read as follows:

Subject to the process in RCW 39.10.270 or 39.10.280, public bodies may utilize the general contractor/construction manager procedure for public works projects where at least one of the following is met:

(1) Implementation of the project involves complex scheduling, phasing, or coordination;

(2) The project involves construction at an occupied facility which must continue to operate during construction;

(3) The involvement of the general contractor/construction manager during the design stage is critical to the success of the project;

(4) The project encompasses a complex or technical work environment; or

(5) The project requires specialized work on a building that has historic significance.

Sec. 13. RCW 39.10.360 and 2009 c 75 s 6 are each amended to read as follows:

(1) Public bodies should select general contractor/construction managers early in the life of public works projects, and in most situations no later than the completion of schematic design.

(2) Contracts for the services of a general contractor/construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. The public solicitation of proposals shall include:

(a) A description of the project, including programmatic, performance, and technical requirements and specifications when available;

(b) The reasons for using the general contractor/construction manager procedure;

(c) A description of the qualifications to be required of the firm, including submission of the firm's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors ~~(and)~~, the relative weight of factors, and protest procedures including time limits for filing a protest, which in no event may limit the time to file a protest to fewer than four business days from the date the proposer was notified of the selection decision;

(e) The form of the contract, including any contract for preconstruction services, to be awarded;

(f) The estimated maximum allowable construction cost; and

(g) The bid instructions to be used by the general contractor/construction manager finalists.

(3)(a) Evaluation factors for selection of the general contractor/construction manager shall include, but not be limited to:

~~((a))~~ (i) Ability of the firm's professional personnel;

~~((b))~~ (ii) The firm's past performance in negotiated and complex projects;

~~((c))~~ (iii) The firm's ability to meet time and budget requirements;

~~((d))~~ (iv) The scope of work the firm proposes to self-perform and its ability to perform that work;

~~((e))~~ (v) The firm's proximity to the project location;

~~((f))~~ (vi) Recent, current, and projected workloads of the firm; and

~~((g))~~ (vii) The firm's approach to executing the project.

(b) An agency may also consider the firm's outreach plan to include small business entities and disadvantaged business enterprises, and the firm's past performance in the utilization of such firms as an evaluation factor.

(4) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, at the time specified by the public body, these finalists shall submit final proposals, including sealed bids for the percent fee on the estimated maximum allowable construction cost and the fixed amount for the general conditions work specified in the request for proposal. The public body shall establish a time and place for the opening of sealed bids for the percent fee on the estimated maximum allowable construction cost and the fixed amount for the general conditions work specified in the request for proposal. At the time and place named, these bids must be publicly opened and read and the public body shall make all previous scoring available to the public. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals. A public body shall not evaluate or disqualify a proposal based on the terms of a collective bargaining agreement.

(5) The public body shall notify all finalists of the selection decision and make a selection summary of the final proposals available to all proposers within two business days of such notification. If the public body receives a timely written protest from a proposer, the public body may not execute a contract until two business days after the final protest decision is transmitted to the protestor. The protestor must submit its protest in accordance with the published protest procedures.

(6) Public bodies may contract with the selected firm to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.

Sec. 14. RCW 39.10.380 and 2007 c 494 s 305 are each amended to read as follows:

(1) All subcontract work and equipment and material purchases shall be competitively bid with public bid openings. Subcontract bid packages and equipment and materials purchases shall be awarded to the responsible bidder submitting the lowest responsive bid. In preparing subcontract bid packages, the general contractor/construction manager shall not be required to violate or waive terms of a collective bargaining agreement.

(2) All subcontract bid packages in which bidder eligibility was not determined in advance shall include the specific objective criteria that will be used by the general contractor/construction manager and the public body to evaluate bidder responsibility. If the lowest bidder submitting a responsive bid is determined by the general contractor/construction manager and the public body not to be responsible, the general contractor/construction manager and the public body must provide written documentation to that bidder explaining their intent to reject the bidder as not responsible and afford the bidder the opportunity to establish that it is a responsible bidder. Responsibility shall be determined in accordance with criteria listed in the bid documents. Protests concerning bidder

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responsibility determination by the general contractor/construction manager and the public body shall be in accordance with subsection (4) of this section.

(3) All subcontractors who bid work over three hundred thousand dollars shall post a bid bond. All subcontractors who are awarded a contract over three hundred thousand dollars shall provide a performance and payment bond for the contract amount. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager.

(4) If the general contractor/construction manager receives a written protest from a subcontractor bidder or an equipment or material supplier, the general contractor/construction manager shall not execute a contract for the subcontract bid package or equipment or material purchase order with anyone other than the protesting bidder without first providing at least two full business days' written notice to all bidders of the intent to execute a contract for the subcontract bid package. The protesting bidder must submit written notice of its protest no later than two full business days following the bid opening. Intermediate Saturdays, Sundays, and legal holidays are not counted.

(5) A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(6) The general contractor/construction manager may negotiate with the lowest responsible and responsive bidder to negotiate an adjustment to the lowest bid or proposal price based upon agreed changes to the contract plans and specifications under the following conditions:

(a) All responsive bids or proposal prices exceed the available funds(~~(-as certified by an appropriate fiscal officer)~~);

(b) The apparent low responsive bid or proposal does not exceed the available funds by the greater of one hundred twenty-five thousand dollars or two percent for projects valued over ten million dollars; and

(c) The negotiated adjustment will bring the bid or proposal price within the amount of available funds.

(7) If the negotiation is unsuccessful, the subcontract work or equipment or material purchases must be rebid.

(8) The general contractor/construction manager must provide a written explanation if all bids are rejected.

Sec. 15. RCW 39.10.385 and 2010 c 163 s 1 are each amended to read as follows:

As an alternative to the subcontractor selection process outlined in RCW 39.10.380, a general contractor/construction manager may, with the approval of the public body, select ~~((a))~~ mechanical subcontractors, ~~((a))~~ electrical subcontractors, or both, using the process outlined in this section. This alternative selection process may only be used when the anticipated value of the subcontract will exceed three million dollars. When using the alternative selection process, the general contractor/construction manager should select the subcontractor early in the life of the public works project.

(1) In order to use this alternative selection process, the general contractor/construction manager and the public body must determine that it is in the best interest of the public. In making this determination the general contractor/construction manager and the public body must:

(a) Publish a notice of intent to use this alternative selection process in a legal newspaper published in or as near as possible to that part of the county where the public work will be constructed. Notice must be published at least fourteen calendar days before conducting a public hearing. The notice must include the date, time, and location of the hearing; a statement justifying the basis and need for the alternative selection process; ~~((and))~~ how interested parties may, prior to the hearing, obtain the evaluation criteria and applicable weight given to each criteria that will be used for

evaluation; and protest procedures including time limits for filing a protest, which may in no event, limit the time to file a protest to fewer than four business days from the date the proposer was notified of the selection decision;

(b) Conduct a hearing and provide an opportunity for any interested party to submit written and verbal comments regarding the justification for using this selection process, the evaluation criteria, ~~((and))~~ weights for each criteria, and protest procedures;

(c) After the public hearing, consider the written and verbal comments received and determine if using this alternative selection process is in the best interests of the public; and

(d) Issue a written final determination to all interested parties. All protests of the decision to use the alternative selection process must be in writing and submitted to the public body within seven calendar days of the final determination. Any modifications to the criteria ~~((and))~~, weights, and protest procedures based on comments received during the public hearing process must be included in the final determination.

(2) Contracts for the services of a subcontractor under this section must be awarded through a competitive process requiring a public solicitation of proposals. Notice of the public solicitation of proposals must be provided to the office of minority and women's business enterprises. The public solicitation of proposals must include:

(a) A description of the project, including programmatic, performance, and technical requirements and specifications when available;

(b) The reasons for using the alternative selection process;

(c) A description of the minimum qualifications required of the firm;

(d) A description of the process used to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors;

(e) Protest procedures;

(f) The form of the contract, including any contract for preconstruction services, to be awarded;

~~((f))~~ (g) The estimated maximum allowable subcontract cost; and

~~((g))~~ (h) The bid instructions to be used by the finalists.

(3) Evaluation factors for selection of the subcontractor must include, but not be limited to:

(a) Ability of the firm's professional personnel;

(b) The firm's past performance on similar projects;

(c) The firm's ability to meet time and budget requirements;

(d) The scope of work the firm proposes to perform with its own forces and its ability to perform that work;

(e) The firm's plan for outreach to minority and women-owned businesses;

(f) The firm's proximity to the project location;

(g) The firm's capacity to successfully complete the project;

(h) The firm's approach to executing the project;

(i) The firm's approach to safety on the project;

(j) The firm's safety history; and

(k) If the firm is selected as one of the most qualified finalists, the firm's fee and cost proposal.

(4) The general contractor/construction manager shall establish a committee to evaluate the proposals. At least one representative from the public body shall serve on the committee. Final proposals, including sealed bids for the percent fee on the estimated maximum allowable subcontract cost, and the fixed amount for the subcontract general conditions work specified in the request for proposal, will be requested from the most qualified firms.

(5) The general contractor/construction manager must notify all proposers of the most qualified firms that will move to the next phase of the selection process. The process may not proceed to the

next phase until two business days after all proposers are notified of the committee's selection decision. At the request of a proposer, the general contractor/construction manager must provide the requesting proposer with a scoring summary of the evaluation factors for its proposal. Proposers filing a protest on the selection of the most qualified finalists must file the protest with the public body in accordance with the published protest procedures. The selection process may not advance to the next phase of selection until two business days after the final protest decision issued by the public body is transmitted to the protestor.

(6) The general contractor/construction manager and the public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors identified in the solicitation of proposals. The scoring of the nonprice factors must be made available at the opening of the fee and cost proposals. The general contractor/construction manager shall notify all proposers of the selection decision and make a selection summary of the final proposals, which shall be available to all proposers within two business days of such notification. The general contractor/construction manager may not evaluate or disqualify a proposal based on the terms of a collective bargaining agreement.

~~((5))~~ (7) If the public body receives a timely written protest from a "most qualified firm," the general contractor/construction manager may not execute a contract for the protested subcontract work until two business days after the final protest decision issued by the public body is transmitted to the protestor. The protestor must submit its protest in accordance with the published protest procedures.

(8) If the general contractor/construction manager is unable to negotiate a satisfactory maximum allowable subcontract cost with the firm selected deemed by public body and the general contractor/construction manager to be fair, reasonable, and within the available funds, negotiations with that firm must be formally terminated and the general contractor/construction manager may negotiate with the next highest scored firm until an agreement is reached or the process is terminated.

~~((6) If the general contractor/construction manager receives a written protest from a bidder, it may not execute a contract for the subject work with anyone other than the protesting bidder, without first providing at least two full business days' written notice to all bidders of the intent to execute a contract for the subcontract bid package. The protesting bidder must submit written notice to the general contractor/construction manager of its protest no later than two full business days following the bid opening.~~

~~((7))~~ (9) With the approval of the public body, the general contractor/construction manager may contract with the selected firm to provide preconstruction services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work; and to act as the mechanical or electrical subcontractor during the construction phase.

~~((8))~~ (10) The maximum allowable subcontract cost must be used to establish a total subcontract cost for purposes of a performance and payment bond. Total subcontract cost means the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable subcontract cost, and the percent fee on the negotiated maximum allowable subcontract cost. Maximum allowable subcontract cost means the maximum cost to complete the work specified for the subcontract, including the estimated cost of work to be performed by the subcontractor's own forces, a percentage for risk contingency, negotiated support services, and approved change orders. The maximum allowable subcontract cost must be negotiated between the general contractor/construction manager and the selected firm when the construction documents and

specifications are at least ninety percent complete. Final agreement on the maximum allowable subcontract cost is subject to the approval of the public body.

~~((9))~~ (11) If the work of the mechanical contractor or electrical contractor is completed for less than the maximum allowable subcontract cost, any savings not otherwise negotiated as part of an incentive clause becomes part of the risk contingency included in the general contractor/construction manager's maximum allowable construction cost. If the work of the mechanical contractor or the electrical contractor is completed for more than the maximum allowable subcontract cost, the additional cost is the responsibility of that subcontractor. An independent audit, paid for by the public body, must be conducted ~~(upon completion of the contract)~~ to confirm the proper accrual of costs as outlined in the contract.

~~((10))~~ (12) A mechanical or electrical contractor selected under this section may perform work with its own forces. In the event it elects to subcontract some of its work, it must select a subcontractor utilizing the procedure outlined in RCW 39.10.380.

Sec. 16. RCW 39.10.390 and 2007 c 494 s 306 are each amended to read as follows:

(1) Except as provided in this section, bidding on subcontract work or for the supply of equipment or materials by the general contractor/construction manager or its subsidiaries is prohibited.

(2) The general contractor/construction manager, or its subsidiaries, may bid on subcontract work or for the supply of equipment or materials if:

(a) The work within the subcontract bid package or equipment or materials is customarily performed or supplied by the general contractor/construction manager;

(b) The bid opening is managed by the public body and is in compliance with RCW 39.10.380; and

(c) Notification of the general contractor/construction manager's intention to bid is included in the public solicitation of bids for the bid package or for the equipment or materials.

(3) In no event may the general contractor/construction manager or its subsidiaries ~~((purchase equipment or materials for assignment to subcontract bid package bidders for installation or warranty))~~ assign warranty responsibility or the terms of its contract or purchase order with vendors for equipment or material purchases to subcontract bid package bidders or subcontractors who have been awarded a contract. The value of subcontract work performed and equipment and materials supplied by the general contractor/construction manager may not exceed thirty percent of the negotiated maximum allowable construction cost. Negotiated support services performed by the general contractor/construction manager shall not be considered subcontract work for purposes of this subsection.

Sec. 17. RCW 39.10.400 and 2007 c 494 s 307 are each amended to read as follows:

(1) If determination of subcontractor eligibility prior to seeking bids is in the best interest of the project and critical to the successful completion of a subcontract bid package, the general contractor/construction manager and the public body may determine subcontractor eligibility to bid. The general contractor/construction manager and the public body must:

(a) Conduct a hearing and provide an opportunity for any interested party to submit written and verbal comments regarding the justification for conducting bidder eligibility, the evaluation criteria, and weights for each criteria and subcriteria;

(b) Publish a notice of intent to evaluate and determine bidder eligibility in a legal newspaper published in or as near as possible to that part of the county where the public work will be constructed at least fourteen calendar days before conducting a public hearing;

(c) Ensure the public hearing notice includes the date, time, and location of the hearing, a statement justifying the basis and need for performing eligibility analysis before bid opening, and how

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interested parties may, at least five days before the hearing, obtain the specific eligibility criteria and applicable weights given to each criterion and subcriteria that will be used during evaluation;

(d) After the public hearing, consider written and verbal comments received and determine if establishing bidder eligibility in advance of seeking bids is in the best interests of the project and critical to the successful completion of a subcontract bid package; and

(e) Issue a written final determination to all interested parties. All protests of the decision to establish bidder eligibility before issuing a subcontractor bid package must be filed with the superior court within seven calendar days of the final determination. Any modifications to the eligibility criteria and weights shall be based on comments received during the public hearing process and shall be included in the final determination.

(2) Determinations of bidder eligibility shall be in accordance with the evaluation criteria and weights for each criteria established in the final determination and shall be provided to interested persons upon request. Any potential bidder determined not to meet eligibility criteria must be afforded ~~((the))~~ one opportunity to establish its eligibility. Protests concerning bidder eligibility determinations shall be in accordance with subsection (1) of this section.

Sec. 18. RCW 39.10.420 and 2012 c 102 s 1 are each amended to read as follows:

(1) The following public bodies of the state of Washington are authorized to award job order contracts and use the job order contracting procedure:

(a) The department of enterprise services;

(b) The state universities, regional universities, and The Evergreen State College;

(c) Sound transit (central Puget Sound regional transit authority);

(d) Every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755;

(e) Every county with a population greater than four hundred fifty thousand;

(f) Every port district with total revenues greater than fifteen million dollars per year;

(g) Every public utility district with revenues from energy sales greater than twenty-three million dollars per year;

(h) Every school district; and

(i) The state ferry system.

(2)(a) The department of enterprise services may issue job order contract work orders for Washington state parks department projects.

(b) The department of enterprise services, the University of Washington, and Washington State University may issue job order contract work orders for the state regional universities and The Evergreen State College.

(3) Public bodies may use a job order contract for public works projects when a determination is made that the use of job order contracts will benefit the public by providing an effective means of reducing the total lead-time and cost for the construction of public works projects for repair and renovation required at public facilities through the use of unit price books and work orders by eliminating time-consuming, costly aspects of the traditional public works process, which require separate contracting actions for each small project.

Sec. 19. RCW 39.10.440 and 2007 c 494 s 403 are each amended to read as follows:

(1) The maximum total dollar amount that may be awarded under a job order contract is four million dollars per year for a maximum of three years. The maximum total dollar amount that

may be awarded under a job order contract for counties with a population of more than one million is six million dollars per year for a maximum of three years.

(2) Job order contracts may be executed for an initial contract term of not to exceed two years, with the option of extending or renewing the job order contract for one year. All extensions or renewals must be priced as provided in the request for proposals. The extension or renewal must be mutually agreed to by the public body and the job order contractor.

(3) A public body may have no more than two job order contracts in effect at any one time, with the exception of the department of ~~((general administration))~~ enterprise services, which may have four job order contracts in effect at any one time.

(4) At least ninety percent of work contained in a job order contract must be subcontracted to entities other than the job order contractor. The job order contractor must distribute contracts as equitably as possible among qualified and available subcontractors including minority and woman-owned subcontractors to the extent permitted by law.

(5) The job order contractor shall publish notification of intent to perform public works projects at the beginning of each contract year in a statewide publication and in a legal newspaper of general circulation in every county in which the public works projects are anticipated.

(6) Job order contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued.

(7) If, in the initial contract term, the public body, at no fault of the job order contractor, fails to issue the minimum amount of work orders stated in the public request for proposals, the public body shall pay the contractor an amount equal to the difference between the minimum work order amount and the actual total of the work orders issued multiplied by an appropriate percentage for overhead and profit contained in the contract award coefficient for services as specified in the request for proposals. This is the contractor's sole remedy.

(8) All job order contracts awarded under this section must be signed before July 1, ~~((2013))~~ 2021; however the job order contract may be extended or renewed as provided for in this section.

(9) Public bodies may amend job order contracts awarded prior to July 1, 2007, in accordance with this chapter.

Sec. 20. RCW 39.10.490 and 2007 c 494 s 501 are each amended to read as follows:

The alternative public works contracting procedures authorized under this chapter are limited to public works contracts signed before July 1, ~~((2013))~~ 2021. Methods of public works contracting authorized under this chapter shall remain in full force and effect until completion of contracts signed before July 1, ~~((2013))~~ 2021.

Sec. 21. RCW 43.131.407 and 2007 c 494 s 506 are each amended to read as follows:

The alternative ~~((public))~~ public works contracting procedures under chapter 39.10 RCW shall be terminated June 30, ~~((2013))~~ 2021, as provided in RCW 43.131.408.

Sec. 22. RCW 43.131.408 and 2012 c 102 s 4 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, ~~((2014))~~ 2022:

(1) RCW 39.10.200 and 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, & 1994 c 132 s 1;

(2) RCW 39.10.210 and 2013 c ... s 1 (section 1 of this act), 2010 1st sp.s. c 36 s 6014, 2007 c 494 s 101, & 2005 c 469 s 3;

(3) RCW 39.10.220 and 2013 c ... s 2 (section 2 of this act), 2007 c 494 s 102, & 2005 c 377 s 1;

(4) RCW 39.10.230 and 2013 c ... s 3 (section 3 of this act), 2010 1st sp.s. c 21 s 3, 2009 c 75 s 1, 2007 c 494 s 103, & 2005 c 377 s 2;

(5) RCW 39.10.240 and 2013 c ... s 4 (section 4 of this act) & 2007 c 494 s 104;

(6) RCW 39.10.250 and 2013 c ... s 5 (section 5 of this act), 2009 c 75 s 2, & 2007 c 494 s 105;

(7) RCW 39.10.260 and 2013 c ... s 6 (section 6 of this act) & 2007 c 494 s 106;

(8) RCW 39.10.270 and 2013 c ... s 7 (section 7 of this act), 2009 c 75 s 3, & 2007 c 494 s 107;

(9) RCW 39.10.280 and 2013 c ... s 8 (section 8 of this act) & 2007 c 494 s 108;

(10) RCW 39.10.290 and 2007 c 494 s 109;

(11) RCW 39.10.300 and 2013 c ... s 9 (section 9 of this act), 2009 c 75 s 4, & 2007 c 494 s 201;

(12) RCW 39.10.320 and 2013 c ... s 10 (section 10 of this act), 2007 c 494 s 203, & 1994 c 132 s 7;

(13) RCW 39.10.330 and 2013 c ... s 11 (section 11 of this act), 2009 c 75 s 5, & 2007 c 494 s 204;

(14) RCW 39.10.340 and 2013 c ... s 12 (section 12 of this act) & 2007 c 494 s 301;

(15) RCW 39.10.350 and 2007 c 494 s 302;

(16) RCW 39.10.360 and 2013 c ... s 13 (section 13 of this act), 2009 c 75 s 6, & 2007 c 494 s 303;

(17) RCW 39.10.370 and 2007 c 494 s 304;

(18) RCW 39.10.380 and 2013 c ... s 14 (section 14 of this act) & 2007 c 494 s 305;

(19) RCW 39.10.385 and 2013 c ... s 15 (section 15 of this act) & 2010 c 163 s 1;

(20) RCW 39.10.390 and 2013 c ... s 16 (section 16 of this act) & 2007 c 494 s 306;

(21) RCW 39.10.400 and 2013 c ... s 17 (section 17 of this act) & 2007 c 494 s 307;

(22) RCW 39.10.410 and 2007 c 494 s 308;

(23) RCW 39.10.420 and 2013 c ... s 18 (section 18 of this act), 2012 c 102 s 1, 2009 c 75 s 7, 2007 c 494 s 401, & 2003 c 301 s 1;

(24) RCW 39.10.430 and 2007 c 494 s 402;

(25) RCW 39.10.440 and 2013 c ... s 19 (section 19 of this act) & 2007 c 494 s 403;

(26) RCW 39.10.450 and 2012 c 102 s 2 & 2007 c 494 s 404;

(27) RCW 39.10.460 and 2012 c 102 s 3 & 2007 c 494 s 405;

(28) RCW 39.10.470 and 2005 c 274 s 275 & 1994 c 132 s 10;

(29) RCW 39.10.480 and 1994 c 132 s 9;

(30) RCW 39.10.490 and 2013 c ... s 20 (section 20 of this act), 2007 c 494 s 501, & 2001 c 328 s 5;

(31) (~~RCW 39.10.500 and 2007 c 494 s 502;~~

~~(32) RCW 39.10.510 and 2007 c 494 s 503;~~

~~(33)) RCW 39.10.900 and 1994 c 132 s 13;~~

~~((34)) (32) RCW 39.10.901 and 1994 c 132 s 14;~~

~~((35)) (33) RCW 39.10.903 and 2007 c 494 s 510;~~

~~((36)) (34) RCW 39.10.904 and 2007 c 494 s 512; and~~

~~((37)) (35) RCW 39.10.905 and 2007 c 494 s 513.~~

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

(1) RCW 39.10.500 (Exemptions) and 2007 c 494 s 502; and

(2) RCW 39.10.510 (Previously advertised projects) and 2007 c 494 s 503.

NEW SECTION. Sec. 24. A new section is added to chapter 43.131 RCW to read as follows:

(1) If the sunset review process in RCW 43.131.010 through 43.131.150 expires before June 30, 2021, the joint legislative audit and review committee must conduct a program and fiscal review of the alternative public works contracting procedures authorized in chapter 39.10 RCW. The review must be completed by June 30, 2021, and findings reported to the office of financial management

and any affected entities. The report must be prepared in the manner set forth in RCW 44.28.071 and 44.28.075.

(2) This section expires July 1, 2022.

NEW SECTION. Sec. 25. Section 24 of this act takes effect upon the expiration of RCW 43.131.051.

NEW SECTION. Sec. 26. Sections 1 through 23 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 30, 2013."

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

MOTION

Senator Dammeier moved that the following committee amendment to the committee striking amendment be adopted:

On page 5, after line 24, insert the following:

"The Capital Projects Advisory Review Board is directed to review current statutes regarding life-cycle cost analysis and energy efficiency as related to the design-build procurement method performed under RCW 39.10. CPARB shall report to the appropriate committees of the legislature by December 31, 2013, with recommendations for statutory changes that promote energy efficiency and reduce the total cost to construct, operate and maintain public buildings. Recommendation must include provisions for post-occupancy validation of estimated energy efficiency measures, and operating and maintenance cost estimates. Life-cycle estimates of energy use must include estimates of energy consumptions for materials used in construction."

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

PARLIAMENTARY INQUIRY

Senator Hasegawa: "Was this amendment handed out?"

REPLY BY THE PRESIDENT

President Owen: "Senator Hasegawa, the committee amendments are in the book that you have, should have at your desk."

PARLIAMENTARY INQUIRY

Senator Hasegawa: "Ok, so my understanding was that we were actually acting on the striking amendment from Ways & Means which did contain this identical language. Is that true?"

Senator Dammeier [Off microphone]: "... We're taking both pieces today... Yes."

Senator Hasegawa spoke in favor of the committee amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the committee on Ways & Means on page 5, line 24 to the committee striking amendment to Substitute House Bill No. 1466.

The motion by Senator Dammeier carried and the committee 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

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Committee on Ways & Means as amended to Substitute House Bill No. 1466.

Senators Hasegawa and Benton spoke against adoption of the committee striking amendment as amended.

Senator Dammeier spoke in favor of adoption of the committee striking amendment as amended.

MOTION

On motion of Senator Fain, further consideration of Substitute House Bill No. 1466 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1422, by House Committee on Government Accountability & Oversight (originally sponsored by Representatives Condotta and Hurst)

Changing the criteria for the beer and wine tasting endorsement for grocery stores.

The measure was read the second time.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Substitute House Bill No. 1422 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Holmquist Newbry spoke in favor of passage of the bill.

POINT OF ORDER

Senator Hargrove: "Thank you Mr. President, I'd like to ask a point of order or ruling on whether this amends the Initiative and what vote would be required for this bill to pass?"

MOTION

On motion of Senator Fain, further consideration of Substitute House Bill No. 1422 was deferred and the bill held its place on the third reading calendar.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1812, by House Committee on Appropriations Subcommittee on Education (originally sponsored by Representatives Haigh, Pettigrew, Springer, Haler, Hunt, Fagan, Morrell, Hunter, Hudgins and Santos)

Extending the time frame for making expenditures under the urban school turnaround initiative.

The measure was read the second time.

MOTION

On motion of Senator Litzow, the rules were suspended, Substitute House Bill No. 1812 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Litzow and McAuliffe 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. 1812.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1812 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

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

Voting nay: Senators Honeyford, Padden and Smith

Excused: Senators Carrell and Chase

SUBSTITUTE HOUSE BILL NO. 1812, 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. 1397, by House Committee on Education (originally sponsored by Representatives Orcutt, Santos, Dahlquist, Pike, Vick, Haler, Hargrove, Buys, Magendanz and Bergquist)

Adding a requirement to sexual health education to include elements of and consequences for conviction of sexual offenses where the victim is a minor.

The measure was read the second time.

MOTION

On motion of Senator Dammeier, the rules were suspended, Substitute House Bill No. 1397 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dammeier and McAuliffe spoke in favor of passage of the bill.

Senator Ericksen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1397.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1397 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

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

Voting nay: Senators Ericksen, Hewitt, Holmquist Newbry, Honeyford, King and Padden

Excused: Senators Carrell and Chase

SUBSTITUTE HOUSE BILL NO. 1397, 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 Fain, the Senate advanced to the eighth order of business.

MOTION

Senator Fraser moved adoption of the following resolution:

SENATE RESOLUTION 8655

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

WHEREAS, During May 2013, many Washingtonians will celebrate the 50th Anniversary of the nationally and globally acclaimed successes of the 1963 American Mt. Everest Expedition, because Washington climbers achieved its most notable successes, and Washingtonians enthusiastically supported this historic achievement in many ways; and

WHEREAS, Members of this Expedition are famed for four unprecedented mountaineering achievements:

(1) On May 1, Jim Whittaker, a Washington State native, climbing with Sherpa Nawang Gombu by the South Col route, became the first American to reach Everest's 29,028 foot summit, the highest point on Earth;

(2) On May 22, Willi Unsoeld, who would become a faculty member at The Evergreen State College, and Tom Hornbein, who returned from Everest to the faculty at the University of Washington School of Medicine, pioneered the unprecedented and exceptionally difficult West Ridge route to the summit and descended by the South Col route to complete the first traverse of a major Himalayan peak;

(3) A few hours earlier that same day, Lute Jerstad, a former Washington resident, and Barry Bishop of Washington D.C. reached the summit by the South Col route; and

(4) Both teams were benighted during the descent, Unsoeld and Hornbein catching up with Jerstad and Bishop. All four survived an unplanned and unprecedented all-night bivouac above 28,000 feet without oxygen, tents, or food, and Unsoeld and Bishop suffered severe frostbite; and

WHEREAS, These mountaineering achievements are successes of the human spirit, involving supreme human effort, extraordinary physical capability and endurance, clear vision and goals, intense determination and focus, superior teamwork, high tolerance for discomfort and danger, and exceptional organizational and logistical preparation; and

WHEREAS, These mountaineering achievements are also the successes of the highly appreciated, dedicated, expert Sherpa climbers who accompanied and supported the members of the Expedition; and

WHEREAS, Human survival at the upper elevations of Mt. Everest is possible only for brief periods of time because the air

contains roughly one-third of the oxygen density of sea level, temperatures are generally around negative 20 degrees Fahrenheit, and hurricane force winds are frequent; and

WHEREAS, Throughout the 109 days of the Expedition, the team steadily engaged in scientific research relating to physiology, psychology, sociology, geology, and glaciology; and

WHEREAS, The Expedition's worldwide acclaim included recognition by President Kennedy at a White House ceremony, by the National Geographic Society, by King Mahendra of Nepal, by the United States Ambassador to Nepal Henry Stebbins, by India Prime Minister Nehru, by the United States Ambassador to India John Kenneth Galbraith, by the Indian Mountaineering Foundation, by mountaineering organizations throughout the world, by major news media around the world, and more; and

WHEREAS, The people of Washington State played a very significant role in the historic successes of the Expedition, through team members with deep Washington ties, including Barry Prather of Ellensburg and John Breitenbach who attended the University of Washington and tragically died when a massive wall of ice in the Khumbu icefall shifted and buried him in tons of ice blocks; through many contributions of cash and in-kind donations from Washington businesses, organizations, and individuals; through Washington State's United States Senator Warren G. Magnuson serving on the Expedition's Advisory Committee; through the Expedition's training and equipment testing taking place at Mount Rainier; and more; and

WHEREAS, Washingtonians' outdoor recreation heritage of hiking, climbing, and camping in the State's extensive mountain ranges, and the widespread appreciation by Washingtonians of the State's beautiful mountains and stately snowy peaks, served as the inspiration for and enthusiastic support of the Expedition in 1963;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate, on the occasion of the 50th Anniversary of the historic first American ascent of Mt. Everest:

(1) Congratulate members of this historic Expedition Jim Whittaker, Nawang Gombu, Willi Unsoeld, Tom Hornbein, Lute Jerstad, Barry Bishop, and all those who supported them;

(2) Express appreciation to all Washingtonians, to the hundreds of others from around the country who assisted its achievements, and to Norman G. Dyhrenfurth who, with his determination and genius, organized and led the Expedition; and

(3) Encourage Washingtonians to continue to engage in outdoor recreation in Washington's welcoming mountain ranges and to continue to appreciate their splendor and be inspired to greatness by them; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Jim Whittaker, Jolene Unsoeld, Tom Hornbein, Norman G. Dyhrenfurth, to the other four surviving members of the team, and to the surviving widows or nearest of kin of the team members now deceased.

Senators Fraser, King, Baumgartner, Hargrove, Tom, Mullet and Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8655.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Jim Whitaker, his wife Diane Roberts and former State Representative and U.S. Congresswoman Jolene Unsoeld who were seated at the rostrum.

With the permission of the Senate, business was suspended to allow Mr. Whitaker and Representative Unsoeld to offer remarks.

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REMARKS BY JIM WHITTAKER

Jim Whittaker: "Thank you very much. I'd just like to say good for you people for climbing a lot of mountains yourselves. Bobby Kennedy was a good friend of mine and we talked a lot about the most honorable profession. His brother thought it was the most honorable profession and so did Bobby. And I want to salute you with admiration for trying to make the world a better place and Washington State a better place. Thank you very much."

REMARKS BY JOLENE UNSOELD

Jolene Unsoeld: "Of course we all think Washington State is just a terrific place but I didn't realize until Karen was doing the research for the resolution that 'Wow, Washington State really was in there,' at the core of it and spreading the good will between other countries, other climbers. And the United States and Washington supported the expedition all the way from the lowliest professions all the way up to some of our largest corporations here that are still doing great; REI, Eddie Bauer. It's amazing what Washington State has done not only as a model for the whole United States but has specifically done in the area in mountaineering and the support for the fiftieth anniversary and for the actual expedition that climbed Mount Everest for the first time for the Americans and two routes. Thank you."

PERSONAL PRIVILEGE

Senator Benton: "I'd like to invite our colleagues and their staffs and anyone that may be interested to receive a free lunch and some information. There are constituents from Seventeenth, Eighteenth and Forty-ninth districts that are here today offering a free lunch in the Columbia Room and some experts to share their knowledge of the Columbia River Crossing project. Please join us for a free lunch in the Columbia Room beginning at 12:00 noon. Thank you."

MOTION

At 11:58 a.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:35 p.m. by President Owen.

MOTION

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

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Holmquist Newbry moved that Lindsey Sires, Gubernatorial Appointment No. 9175, be confirmed as a member of the Board of Trustees, Central Washington University.

Senator Holmquist Newbry spoke in favor of the motion.

MOTION

On motion of Senator Mullet, Senator McAuliffe was excused.

MOTION

On motion of Senator Harper, Senator Chase was excused.

APPOINTMENT OF LINDSEY SIRES

The President declared the question before the Senate to be the confirmation of Lindsey Sires, Gubernatorial Appointment No. 9175, as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Lindsey Sires, Gubernatorial Appointment No. 9175, as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Carrell and McAuliffe

Lindsey Sires, Gubernatorial Appointment No. 9175, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Schoesler moved that Michael Worthy, Gubernatorial Appointment No. 9199, be confirmed as a member of the Board of Regents, Washington State University.

Senator Schoesler spoke in favor of the motion.

APPOINTMENT OF MICHAEL WORTHY

The President declared the question before the Senate to be the confirmation of Michael Worthy, Gubernatorial Appointment No. 9199, as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Michael Worthy, Gubernatorial Appointment No. 9199, as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Carrell and McAuliffe

Michael Worthy, Gubernatorial Appointment No. 9199, having received the constitutional majority was declared

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

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Padden moved that Robert Whaley, Gubernatorial Appointment No. 9195, be confirmed as a member of the Board of Trustees, Eastern Washington University.

Senator Padden spoke in favor of the motion.

APPOINTMENT OF ROBERT WHALEY

The President declared the question before the Senate to be the confirmation of Robert Whaley, Gubernatorial Appointment No. 9195, as a member of the Board of Trustees, Eastern Washington University.

The Secretary called the roll on the confirmation of Robert Whaley, Gubernatorial Appointment No. 9195, as a member of the Board of Trustees, Eastern Washington University and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Carrell and McAuliffe

Robert Whaley, Gubernatorial Appointment No. 9195, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Eastern Washington University.

RULING BY THE PRESIDENT

President Owen: "In ruling on the Point of Inquiry raised by Senator Hargrove as to whether Substitute House Bill No. 1422 amends Initiative 1183 so as to require a 2/3 vote on final passage, the President finds and rules as follows:

Initiative 1183 privatized the sale of *spirits*, allowing certain private retailers to sell the product. Substitute House Bill No. 1422 makes changes to the current eligibility criteria that must be met by a grocery store in order to provide *beer and wine* samples, by making certain aspects of the endorsement consistent with the terms of the initiative. The endorsement that allows beer and wine sampling was already in statute prior to the passage of the initiative, and was not amended or otherwise altered by the initiative.

Substitute House Bill No. 1422 does not amend the language of the initiative nor even address the issue of the sale of spirits. For these reasons, the President finds that Substitute House Bill No. 1422 would not amend Initiative 1183, and will require only a Constitutional majority vote on final passage."

The Senate resumed consideration of Substitute House Bill No. 1422 which had been deferred earlier in the day.

Senators Hargrove and Darneille spoke against passage of the bill.

Senator Conway spoke in favor of passage of the bill.

MOTION

On motion of Senator Billig, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1422.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1422 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 15; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Billig, Braun, Brown, Cleveland, Conway, Eide, Ericksen, Fain, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Ranker, Rivers, Schoesler, Sheldon, Shin, Smith and Tom

Voting nay: Senators Benton, Chase, Dammeier, Darneille, Fraser, Frockt, Hargrove, Hasegawa, Nelson, Padden, Parlette, Pearson, Roach, Rolfes and Schlicher

Excused: Senators Carrell and Kline

SUBSTITUTE HOUSE BILL NO. 1422, 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 1:58 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:24 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

April 16, 2013

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 5021,
SENATE BILL NO. 5025,
SENATE BILL NO. 5046,
SUBSTITUTE SENATE BILL NO. 5077,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5110,
SENATE BILL NO. 5114,
SENATE BILL NO. 5142,
SUBSTITUTE SENATE BILL NO. 5165,
SENATE BILL NO. 5186,
SENATE BILL NO. 5207,
SUBSTITUTE SENATE BILL NO. 5210,
SENATE BILL NO. 5212,
SENATE BILL NO. 5235,
SUBSTITUTE SENATE BILL NO. 5274,
SENATE BILL NO. 5302,
SUBSTITUTE SENATE BILL NO. 5316,
SUBSTITUTE SENATE BILL NO. 5332,
SUBSTITUTE SENATE BILL NO. 5352,
SUBSTITUTE SENATE BILL NO. 5400,
SENATE BILL NO. 5446,

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ENGROSSED SUBSTITUTE SENATE BILL NO. 5458,
 SENATE BILL NO. 5466,
 SUBSTITUTE SENATE BILL NO. 5517,
 SENATE BILL NO. 5541,
 SUBSTITUTE SENATE BILL NO. 5568,
 SECOND SUBSTITUTE SENATE BILL NO. 5624,
 SENATE BILL NO. 5627,
 SENATE BILL NO. 5712,
 SENATE BILL NO. 5751,
 SUBSTITUTE SENATE BILL NO. 5774,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5849.
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 16, 2013

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1034,
 HOUSE BILL NO. 1035,
 HOUSE BILL NO. 1056,
 HOUSE BILL NO. 1109,
 HOUSE BILL NO. 1112,
 HOUSE BILL NO. 1113,
 HOUSE BILL NO. 1146,
 HOUSE BILL NO. 1182,
 HOUSE BILL NO. 1209,
 HOUSE BILL NO. 1213,
 SUBSTITUTE HOUSE BILL NO. 1307,
 HOUSE BILL NO. 1311,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1325,
 SUBSTITUTE HOUSE BILL NO. 1343,
 SUBSTITUTE HOUSE BILL NO. 1376,
 ENGROSSED HOUSE BILL NO. 1396,
 HOUSE BILL NO. 1469,
 SECOND SUBSTITUTE HOUSE BILL NO. 1518,
 HOUSE BILL NO. 1533,
 SUBSTITUTE HOUSE BILL NO. 1537,
 HOUSE BILL NO. 1565,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1625,
 HOUSE BILL NO. 1639,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1647,
 SUBSTITUTE HOUSE BILL NO. 1686,
 HOUSE BILL NO. 1770,
 HOUSE BILL NO. 1790,
 SUBSTITUTE HOUSE BILL NO. 1806,
 SUBSTITUTE HOUSE BILL NO. 1836,
 HOUSE BILL NO. 1860,
 SUBSTITUTE HOUSE BILL NO. 1886,
 SUBSTITUTE HOUSE BILL NO. 1889,
 HOUSE BILL NO. 1937.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

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

SUBSTITUTE HOUSE BILL NO. 1034,
 HOUSE BILL NO. 1035,
 HOUSE BILL NO. 1056,

HOUSE BILL NO. 1109,
 HOUSE BILL NO. 1112,
 HOUSE BILL NO. 1113,
 HOUSE BILL NO. 1146,
 HOUSE BILL NO. 1182,
 HOUSE BILL NO. 1209,
 HOUSE BILL NO. 1213,
 SUBSTITUTE HOUSE BILL NO. 1307,
 HOUSE BILL NO. 1311,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1325,
 SUBSTITUTE HOUSE BILL NO. 1343,
 SUBSTITUTE HOUSE BILL NO. 1376,
 ENGROSSED HOUSE BILL NO. 1396,
 HOUSE BILL NO. 1469,
 SECOND SUBSTITUTE HOUSE BILL NO. 1518,
 HOUSE BILL NO. 1533,
 SUBSTITUTE HOUSE BILL NO. 1537,
 HOUSE BILL NO. 1565,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1625,
 HOUSE BILL NO. 1639,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1647,
 SUBSTITUTE HOUSE BILL NO. 1686,
 HOUSE BILL NO. 1770,
 HOUSE BILL NO. 1790,
 SUBSTITUTE HOUSE BILL NO. 1806,
 SUBSTITUTE HOUSE BILL NO. 1836,
 HOUSE BILL NO. 1860,
 SUBSTITUTE HOUSE BILL NO. 1886,
 SUBSTITUTE HOUSE BILL NO. 1889,
 HOUSE BILL NO. 1937.

MOTION

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

MOTION

Senator Murray moved that the Senate advance to the ninth order of business.

POINT OF ORDER

Senator Schoesler: "Thank you Mr. President, I object. Thank you Mr. President. Am I correct that the motion we are considering is only procedural to advance to the ninth order of business and nothing further as a non-debatable motion? Could you clarify this motion for me?"

REPLY BY THE PRESIDENT

President Owen: "Senator Schoesler, advancing to the ninth order of business is not debatable. However, the practice of the President has always been that he allows a statement on each side for and against the motion."

Senator Murray moved that the Senate advance to the ninth order of business for the purpose of relieving the Committee on Health & Long Term Care of Engrossed House Bill No. 1044, concerning health plan coverage for the voluntary termination of a pregnancy, and the Committee on Higher Education of Engrossed House Bill No. 1817, adding eligibility criteria for higher education financial aid.

REMARKS BY THE PRESIDENT

President Owen: "Senator Murray, for a clarification for the President, your motion is to move to the ninth order of business. Did you add for this specific purpose in your motion?"

REPLY BY SENATOR MURRAY

Senator Murray: "Yes, those two bills."

REMARKS BY THE PRESIDENT

President Owen: "Senator Murray, you can place those in the motion if you like. However, it does not limit anybody to just those two bills once you get to the ninth order."

Senator Schoesler spoke against the motion.
Senator Murray spoke in favor of the motion.

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

Senator Frockt demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The Secretary called the roll on the motion by Senator Murray and the motion failed by the following vote: Yeas, 23; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Chase, Cleveland, Conway, Darneille, Eide, Fraser, Frockt, Harper, Hasegawa, Hatfield, Hobbs, Keiser, Kline, Kohl-Welles, McAuliffe, Mullet, Murray, Nelson, Ranker, Rolfes, Schlicher and Shin

Voting nay: Senators Bailey, Baumgartner, Becker, Benton, Braun, Brown, Dammeier, Ericksen, Fain, Hargrove, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Padden, Parlette, Pearson, Rivers, Roach, Schoesler, Sheldon, Smith and Tom

Excused: Senator Carrell

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1480, by House Committee on Health Care & Wellness (originally sponsored by Representatives Green, Schmick, Cody, Harris and Jinkins)

Concerning the provision of prescription drugs by direct practice providers.

The measure was read the second time.

MOTION

On motion of Senator Becker, the rules were suspended, Engrossed Substitute House Bill No. 1480 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Becker and Frockt 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. 1480.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1480 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Carrell

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1480, 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.

SIGNED BY THE PRESIDENT

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

SUBSTITUTE SENATE BILL NO. 5008,
SENATE BILL NO. 5030,
SENATE BILL NO. 5056,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5095,
SENATE BILL NO. 5149,
SUBSTITUTE SENATE BILL NO. 5180,
SENATE BILL NO. 5258,
SENATE BILL NO. 5343,
SUBSTITUTE SENATE BILL NO. 5362,
SUBSTITUTE SENATE BILL NO. 5396,
SUBSTITUTE SENATE BILL NO. 5444,
SENATE BILL NO. 5496,
SUBSTITUTE SENATE BILL NO. 5559,
SENATE BILL NO. 5593,
SECOND ENGROSSED SENATE BILL NO. 5701,
SENATE BILL NO. 5770,
SENATE BILL NO. 5806.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1134, by House Committee on Appropriations (originally sponsored by Representatives McCoy, Santos, Appleton, Lytton, Ryu, Stanford, Roberts, Jinkins, Haigh, Freeman and Hunt)

Authorizing state-tribal education compact schools.

The measure was read the second time.

MOTION

Senator Litzow moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) American Indian and Alaska Native students make up 2.5 percent of the total student population in the state and twenty-five

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percent or more of the student population in fifty-seven schools across the state.

(b) American Indian students in Washington have the highest annual drop-out rate at 9.5 percent, compared to 4.6 percent of all students in each of grades nine through twelve. Of the students expected to graduate in 2010 because they entered the ninth grade in 2006, the American Indian on-time graduation rate was only fifty-eight percent, compared to 76.5 percent of all students.

(c) The teaching of American Indian language, culture, and history are important to American Indian people and critical to the educational attainment and achievement of American Indian children.

(d) The state-tribal education compacts authorized under this chapter reaffirm the state's important commitment to government-to-government relationships with the tribes that has been recognized by proclamation, and in the centennial accord and the millennium agreement. These state-tribal education compacts build upon the efforts highlighted by the office of the superintendent of public instruction in its 2012 Centennial Accord Agency Highlights, including: The Since Time Immemorial (STI): Tribal Sovereignty in Washington State Curriculum Project that imbeds the history surrounding sovereignty and intergovernmental responsibilities into this state's classrooms; the agency's regular meetings with the superintendents of the seven current tribal schools, as well as the federal bureau of Indian education representatives at the regional and national level on issues relating to student academic achievement, accessing of funding for tribal schools, and connecting tribal schools to the K-20 network; and the recent establishment, in statute, of the office of native education within the office of the superintendent of public instruction.

(e) School funding should honor tribal sovereignty and reflect the government-to-government relationship between the state and the tribes, however the current structure that requires negotiation of an interlocal agreement between a school district and a tribal school ignores tribal sovereignty and results in a siphoning of funds for administration that could be better used for teaching and learning.

(2) The legislature further finds that:

(a) The need for high-quality, culturally competent early learning opportunities continues to grow;

(b) There is a preparation gap among entering kindergartners with many children, especially those from low-income homes, arriving at kindergarten without the knowledge, skills, and good health necessary to succeed in school;

(c) Upon entry into the K-12 school system, the educational opportunity gap becomes more evident, with children of color and from low-income homes having lower scores on math, reading, and writing standardized tests, as well as lower graduation rates and higher rates of dropping out of school; and

(d) Comprehensive, culturally competent early learning and greater collaboration between the early learning and K-12 school systems will ensure appropriate connections and smoother transitions for children, and help eliminate or bridge gaps that might otherwise develop.

(3) In light of these findings, it is the intent and purpose of the legislature to:

(a) Authorize the superintendent of public instruction to enter into state-tribal education compacts; and

(b) Foster the development of a voluntary, high-quality, and culturally competent early learning pilot program to work in conjunction with, and offer a seamless transition to, schools established pursuant to state-tribal education compacts.

NEW SECTION. Sec. 2. (1) The superintendent of public instruction is authorized to enter into state-tribal education compacts.

(2) No later than six months after the effective date of this section, the superintendent of public instruction shall establish an application and approval process, procedures, and timelines for the negotiation, approval or disapproval, and execution of state-tribal education compacts.

(3) The process may be initiated by submission, to the superintendent of public instruction, of a resolution by:

(a) The governing body of a tribe in the state of Washington; or

(b) The governing body of any of the schools in Washington that are currently funded by the federal bureau of Indian affairs, whether directly or through a contract or compact with an Indian tribe or a tribal consortium.

(4) The resolution must be accompanied by an application that indicates the grade or grades from kindergarten through twelve that will be offered and that demonstrates that the school will be operated in compliance with all applicable laws, the rules adopted thereunder, and the terms and conditions set forth in the application.

(5) Within ninety days of receipt of a resolution and application under this section, the superintendent must convene a government-to-government meeting for the purpose of considering the resolution and application and initiating negotiations.

(6) State-tribal education compacts must include provisions regarding:

(a) Compliance;

(b) Notices of violation;

(c) Dispute resolution, which may include nonjudicial processes such as mediation;

(d) Recordkeeping and auditing;

(e) The delineation of the respective roles and responsibilities;

(f) The term or length of the contract, and whether or not it is renewable; and

(g) Provisions for compact termination.

(7) The superintendent of public instruction shall adopt such rules as are necessary to implement this chapter.

NEW SECTION. Sec. 3. (1) A school that is the subject of a state-tribal education compact must operate according to the terms of its compact executed in accordance with section 2 of this act.

(2) Schools that are the subjects of state-tribal education compacts are exempt from all state statutes and rules applicable to school districts and school district boards of directors, except those statutes and rules made applicable under this chapter and in the state-tribal education compact executed under section 2 of this act.

(3) Each school that is the subject of a state-tribal education compact must:

(a) Provide a curriculum and conduct an educational program that satisfies the requirements of RCW 28A.150.200 through 28A.150.240 and 28A.230.010 through 28A.230.195;

(b) Employ certificated instructional staff as required in RCW 28A.410.010, however such schools may hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW 28A.150.203(7);

(c) Comply with the employee record check requirements in RCW 28A.400.303 and the mandatory termination and notification provisions of RCW 28A.400.320, 28A.400.330, 28A.405.470, and 28A.405.475;

(d) Comply with nondiscrimination laws;

(e) Adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor, including annual audits for legal and fiscal compliance; and

(f) Be subject to and comply with legislation enacted after the effective date of this section governing the operation and management of schools that are the subject of a state-tribal education compact.

(4) No such school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

(5) Nothing in this chapter may limit or restrict any enrollment or school choice options otherwise available under Title 28A RCW.

NEW SECTION. Sec. 4. (1) A school that is the subject of a state-tribal education compact may not charge tuition except to the same extent as school districts may be permitted to do so with respect to out-of-state and adult students pursuant to chapter 28A.225 RCW, but may charge fees for participation in optional extracurricular events and activities.

(2) Such schools may not limit admission on any basis other than age group, grade level, or capacity and must otherwise enroll all students who apply.

(3) If capacity is insufficient to enroll all students who apply, a school that is the subject of a state-tribal education compact may prioritize the enrollment of tribal members and siblings of already enrolled students.

NEW SECTION. Sec. 5. (1) A school that is the subject of a state-tribal education compact must report student enrollment. Reporting must be done in the same manner and use the same definitions of enrolled students and annual average full-time equivalent enrollment as is required of school districts. The reporting requirements in this subsection are required for a school to receive state or federal funding that is allocated based on student characteristics.

(2) Funding for a school that is the subject of a state-tribal education compact shall be apportioned by the superintendent of public instruction according to the schedule established under RCW 28A.510.250, including general apportionment, special education, categorical, and other nonbasic education moneys. Allocations for certificated instructional staff must be based on the average staff mix ratio of the school, as calculated by the superintendent of public instruction using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act. Allocations for classified staff and certificated administrative staff must be based on the salary allocations of the school district in which the school is located, subject to conditions and limitations established by the omnibus appropriations act. Nothing in this section requires a school that is the subject of a state-tribal education compact to use the statewide salary allocation schedule. Such a school is eligible to apply for state grants on the same basis as a school district.

(3) Any moneys received by a school that is the subject of a state-tribal education compact from any source that remain in the school's accounts at the end of any budget year must remain in the school's accounts for use by the school during subsequent budget years.

(4) Schools that are the subject of state-tribal education compacts are encouraged to conduct early learning pilot programs developed under section 9 of this act in conjunction with their school programs for kindergarten and beyond.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.642 RCW to read as follows:

Nothing in this chapter prohibits schools established under chapter 28A.--- RCW (the new chapter created in section 9 of this act) from:

(1) Implementing a policy of Indian preference in employment; or

(2) Prioritizing the admission of tribal members where capacity of the school's programs or facilities is not as large as demand.

Sec. 7. RCW 49.60.400 and 1999 c 3 s 1 are each amended to read as follows:

(1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color,

ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(2) This section applies only to action taken after December 3, 1998.

(3) This section does not affect any law or governmental action that does not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin.

(4) This section does not affect any otherwise lawful classification that:

(a) Is based on sex and is necessary for sexual privacy or medical or psychological treatment; or

(b) Is necessary for undercover law enforcement or for film, video, audio, or theatrical casting; or

(c) Provides for separate athletic teams for each sex.

(5) This section does not invalidate any court order or consent decree that is in force as of December 3, 1998.

(6) This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.

(7) Nothing in this section prohibits schools established under chapter 28A.--- RCW (the new chapter created in section 9 of this act) from:

(a) Implementing a policy of Indian preference in employment;
or

(b) Prioritizing the admission of tribal members where capacity of the school's programs or facilities is not as large as demand.

(8) For the purposes of this section, "state" includes, but is not necessarily limited to, the state itself, any city, county, public college or university, community college, school district, special district, or other political subdivision or governmental instrumentality of or within the state.

~~((8))~~ (9) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Washington antidiscrimination law.

~~((9))~~ (10) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

Sec. 8. RCW 84.52.0531 and 2012 1st sp.s. c 10 s 8 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b), (c), and (d) of this subsection minus (e) of this subsection:

(a) The district's levy base as defined in subsections (3) and (4) of this section multiplied by the district's maximum levy percentage as defined in subsection ~~((6))~~ (7) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) Except for nonhigh districts under (d) of this subsection, for districts in an interdistrict cooperative agreement, the nonresident

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school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection ~~((6))~~ (7) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The levy bases of nonhigh districts participating in an innovation academy cooperative established under RCW 28A.340.080 shall be adjusted by the office of the superintendent of public instruction to reflect each district's proportional share of student enrollment in the cooperative;

(e) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 2005 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year and the amounts determined under subsection (4) of this section, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) Statewide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(4) For levy collections in calendar years 2005 through 2017, in addition to the allocations included under subsection (3)(a) through (c) of this section, a district's levy base shall also include the following:

(a)(i) For levy collections in calendar year 2010, the difference between the allocation the district would have received in the current school year had RCW 84.52.068 not been amended by chapter 19, Laws of 2003 1st sp. sess. and the allocation the district received in the current school year pursuant to RCW 28A.505.220;

(ii) For levy collections in calendar years 2011 through 2017, the allocation rate the district would have received in the prior school year using the Initiative 728 rate multiplied by the full-time equivalent student enrollment used to calculate the Initiative 728 allocation for the prior school year; and

(b) The difference between the allocations the district would have received the prior school year using the Initiative 732 base and

the allocations the district actually received the prior school year pursuant to RCW 28A.400.205.

(5) For levy collections in calendar years 2011 through 2017, in addition to the allocations included under subsections (3)(a) through (c) and (4)(a) and (b) of this section, a district's levy base shall also include the difference between an allocation of fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four enrolled in the prior school year and the allocation of certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four that the district actually received in the prior school year, except that the levy base for a school district whose allocation in the 2009-10 school year was less than fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four shall include the difference between the allocation the district actually received in the 2009-10 school year and the allocation the district actually received in the prior school year.

(6) For levy collections beginning in calendar year 2014 and thereafter, in addition to the allocations included under subsections (3)(a) through (c), (4)(a) and (b), and (5) of this section, a district's levy base shall also include the funds allocated by the superintendent of public instruction under section 5 of this act to a school that is the subject of a state-tribal education compact and that formerly contracted with the school district to provide educational services through an interlocal agreement and received funding from the district.

(7)(a) A district's maximum levy percentage shall be twenty-four percent in 2010 and twenty-eight percent in 2011 through 2017 and twenty-four percent every year thereafter;

(b) For qualifying districts, in addition to the percentage in (a) of this subsection the grandfathered percentage determined as follows:

(i) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

(ii) For 2011 through 2017, the percentage calculated as follows:

(A) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(B) Reduce the result of (b)(ii)(A) of this subsection by any levy reduction funds as defined in subsection ~~((7))~~ (8) of this section that are to be allocated to the district for the current school year;

(C) Divide the result of (b)(ii)(B) of this subsection by the district's levy base; and

(D) Take the greater of zero or the percentage calculated in (b)(ii)(C) of this subsection.

~~((7))~~ (8) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsections (3) and (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

~~((8))~~ (9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

(b) "Current school year" means the year immediately following the prior school year.

(c) "Initiative 728 rate" means the allocation rate at which the student achievement program would have been funded under chapter 3, Laws of 2001, if all annual adjustments to the initial 2001 allocation rate had been made in previous years and in each subsequent year as provided for under chapter 3, Laws of 2001.

(d) "Initiative 732 base" means the prior year's state allocation for annual salary cost-of-living increases for district employees in the state-funded salary base as it would have been calculated under chapter 4, Laws of 2001, if each annual cost-of-living increase allocation had been provided in previous years and in each subsequent year.

~~((9))~~ (10) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

~~((40))~~ (11) The superintendent of public instruction shall develop rules and inform school districts of the pertinent data necessary to carry out the provisions of this section.

~~((44))~~ (12) For calendar year 2009, the office of the superintendent of public instruction shall recalculate school district levy authority to reflect levy rates certified by school districts for calendar year 2009.

NEW SECTION. Sec. 9. Sections 1 through 5 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 10. Section 8 of this act expires January 1, 2018."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1134.

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

MOTION

Senator Litzow moved that the amendment on page 2, line 11 by Senator Litzow to the committee striking amendment be adopted.

REMARKS BY THE PRESIDENT

President Owen: "We don't show a floor amendment. Do you have a floor amendment you want to show us?"

NOTICE OF RECONSIDERATION

Senator Fain, having voted on the prevailing side, gave notice of reconsideration of the vote by which the committee striking amendment to by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1134 was adopted by the senate.

MOTION

On motion of Senator Fain, further consideration of Engrossed Second Substitute House Bill No. 1134 was deferred and the bill held its place on the second reading calendar.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1717, by House Committee on Local Government (originally sponsored by Representatives Fitzgibbon, Jinkins, Lias, Maxwell, Roberts, Pollet, Uptegrove, Morrell and Springer)

Incentivizing up-front environmental planning, review, and infrastructure construction actions.

The measure was read the second time.

MOTION

On motion of Senator Roach, the rules were suspended, Engrossed Substitute House Bill No. 1717 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Roach and Hasegawa 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. 1717.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1717 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Carrell

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1717, 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. 1261, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Hope and Santos)

Establishing receiving care centers for emergency and crisis care for children removed from their homes. Revised for 1st Substitute: Establishing a resource and assessment center license for agencies to provide short-term emergency and crisis care for children removed from their homes.

The measure was read the second time.

MOTION

On motion of Senator Pearson, the rules were suspended, Substitute House Bill No. 1261 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pearson 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. 1261.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1261 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier,

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Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senator Carrell

SUBSTITUTE HOUSE BILL NO. 1261, 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.

The Senate resumed consideration of Engrossed Second Substitute House Bill No. 1134 which had been deferred earlier in the day.

On motion of Senator Fain, having given prior notice pursuant to Rule 37, the rules were suspended and the Senate immediately reconsidered the vote by which the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1134 was adopted by the Senate earlier in the day.

MOTION

Senator Litzow moved that the following amendment by Senator Litzow to the committee striking amendment be adopted:

On page 2, beginning on line 11 of the amendment, after "(a)" strike all material through "(b)" on line 13

Reletter the remaining subsections alphabetically and correct any internal references accordingly.

On page 2, beginning on line 27 of the amendment, after "to" strike all material through "compacts." on line 33 and insert "authorize the superintendent of public instruction to enter into state-tribal education compacts."

On page 5, beginning on line 32, strike all of subsection (4)

Correct any internal references accordingly.

Senator Litzow 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 Litzow on page 2, line 11 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1134.

The motion by Senator Litzow 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 Ways & Means as amended to Engrossed Second Substitute House Bill No. 1134.

The motion by Senator Litzow 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 "schools;" strike the remainder of the title and insert "amending RCW 49.60.400 and 84.52.0531; adding a new section to chapter 28A.642 RCW; adding a new chapter to Title 28A RCW; and providing expiration dates."

MOTION

On motion of Senator Litzow, the rules were suspended, Engrossed Second Substitute House Bill No. 1134 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 Litzow, McAuliffe and Sheldon 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. 1134 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1134 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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

Voting nay: Senators Holmquist Newbry, Honeyford and Padden

Excused: Senator Carrell

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1134 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. 1738, by Representatives Hayes, Sells, Seaquist, Dunshee and Ryu

Authorizing political subdivisions to purchase certain technology and services from the United States government.

The measure was read the second time.

MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 1738 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Roach and Hasegawa spoke in favor of passage of the bill.

MOTION

On motion of Senator Billig, Senator Shin was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1738.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1738 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

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

Voting nay: Senators Holmquist Newbry and Honeyford

Excused: Senators Carrell and Shin

HOUSE BILL NO. 1738, 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. 1447, by Representatives Fey, Hargrove, Clibborn and Zeiger

Modifying the boundaries of certain heavy haul corridors.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, House Bill No. 1447 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide and King 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. 1447.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1447 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Carrell and Shin

HOUSE BILL NO. 1447, 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 Billig, Senator Murray was excused.

SECOND READING

HOUSE BILL NO. 1203, by Representatives Farrell, Lytton, Kagi, Freeman, Walsh, Ryu, Reykdal, Morrell, Jinkins, Bergquist and Ormsby

Exempting personal information relating to children from public inspection and copying.

The measure was read the second time.

MOTION

Senator Darneille moved that the following amendment by Senator Darneille be adopted:

On page 2, after line 27, insert the following:

“NEW SECTION. Sec. 2. A new section is added to chapter 42.56 RCW to read as follows:

Actual enumeration data collected under RCW 35.15.260, 35A.14.700, and 36.13.030, and chapter 43.62 RCW shall be used and retained only by the office of financial management and only for the purposes of RCW 35.13.260, 35A.14.700, and 36.13.030, and chapter 43.62 RCW. The enumeration data collected is confidential and not subject to public disclosure. The office of financial management must destroy the enumeration data collected after it is used to produce the required population estimates.

On page 1, line 2 of the title, after “children;” strike “and” and on line 3, after “42.56.230” insert “; and adding a new section to chapter 42.56 RCW”

Senator Darneille spoke in favor of adoption of the amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Darneille, the amendment by Senator Darneille on page 2, line 27 to House Bill No. 1203 was withdrawn.

MOTION

On motion of Senator Pearson, the rules were suspended, House Bill No. 1203 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pearson and Darneille 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. 1203.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1203 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Murray and Shin

HOUSE BILL NO. 1203, 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. 1270, by House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Schmick, Green, Harris, Cody and Ryu)

Making the board of denturists the disciplining authority for licensed denturists.

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The measure was read the second time.

MOTION

On motion of Senator Dammeier, the rules were suspended, Substitute House Bill No. 1270 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dammeier and Keiser 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. 1270.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1270 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Murray and Shin

SUBSTITUTE HOUSE BILL NO. 1270, 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. 1271, by House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Johnson, Morrell, Green, Harris, Cody, Ryu and Tharinger)

Concerning the practice of denturism.

The measure was read the second time.

MOTION

On motion of Senator Dammeier, the rules were suspended, Substitute House Bill No. 1271 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dammeier and Keiser 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. 1271.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1271 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

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

Excused: Senators Carrell, Murray and Shin

SUBSTITUTE HOUSE BILL NO. 1271, 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. 1180, by House Committee on Appropriations (originally sponsored by Representatives Scott, Blake, Kristiansen and Santos)

Addressing death benefits for volunteer firefighters and reserve officers.

The measure was read the second time.

MOTION

On motion of Senator Hill, the rules were suspended, Substitute House Bill No. 1180 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hill and Conway 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. 1180.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1180 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Murray and Shin

SUBSTITUTE HOUSE BILL NO. 1180, 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. 1764, by House Committee on Appropriations (originally sponsored by Representatives Chandler, Stanford, Blake, Appleton and Dunshee)

Concerning geoduck diver licenses.

The measure was read the second time.

MOTION

Senator Pearson moved that the following committee striking amendment by the Committee on Natural Resources & Parks be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.65.410 and 1993 c 340 s 24 are each amended to read as follows:

(1)(a) Every diver engaged in the commercial harvest of subtidal geoduck clams shall obtain a (nontransferable) geoduck diver license. An individual may only own one license and all geoduck harvesting performed under the license must be done personally by the actual license holder.

(b) The licensing requirement created in this section does not apply to divers engaged in activities related to the cultivation of geoduck clams as private sector cultured aquatic products as defined in RCW 15.85.020.

(c) The geoduck diver license is a nontransferable license.

(2) Beginning January 1, 2015, the director may not issue more than seventy-seven geoduck diver licenses in any one year.

(3) The annual geoduck diver license fee is as provided in RCW 77.65.440.

(4) A geoduck diver license expires on December 31st of each year. Prior to the license's expiration, a license holder may apply to renew the license holder's geoduck diver license only if the license holder is included on a department of natural resources' geoduck harvest agreement plan of operation during the applicable current calendar year.

(5) Beginning January 1, 2015, each person applying for or renewing a geoduck diver license under this section must complete the geoduck diver safety program established in section 5 of this act prior to being issued a license.

NEW SECTION. Sec. 2. (1) The director of the department of fish and wildlife shall give individuals who held a geoduck diver license in 2011, 2012, 2013, or 2014, and who were listed on a department of natural resources' geoduck harvest agreement plan of operation during the same period, the right of first refusal to purchase a geoduck diver license for the 2015 license year.

(2) Any license holder who qualifies for the right of first refusal under this section must have his or her intent to purchase a geoduck diver license in 2015 known to the director of the department of fish and wildlife within six months of the effective date of this section.

(3) This section expires June 30, 2016.

NEW SECTION. Sec. 3. A new section is added to chapter 77.65 RCW to read as follows:

The department must revoke a geoduck diver license issued under RCW 77.65.410, and the licensee must surrender the license, if the licensee is found in violation of a department of natural resources' geoduck harvest agreement two or more times. The person surrendering the geoduck diver license may not hold another geoduck diver license for a period of one calendar year from the date the license is surrendered.

NEW SECTION. Sec. 4. A new section is added to chapter 43.30 RCW to read as follows:

(1) The department shall establish a geoduck harvest safety committee. The geoduck harvest safety committee consists of one representative from the department, one representative from the department's geoduck diver advisory committee, one representative from an organization representing the interests of geoduck harvesters, and one representative from an organization representing the interests of geoduck divers. Each representative must be appointed by the administrator.

(2) The geoduck harvest safety committee must meet at least quarterly. By December 1, 2013, the committee must submit a recommendation to the department regarding the establishment of a geoduck diver safety program and safety requirements for geoduck divers licensed under RCW 77.65.410.

(3) Upon the establishment of the geoduck diver safety program under section 5 of this act, the geoduck harvest safety committee must continue to review and evaluate the safety program's success and effectiveness and recommend to the department appropriate changes to improve the geoduck diver safety program.

NEW SECTION. Sec. 5. A new section is added to chapter 43.30 RCW to read as follows:

(1) By December 1, 2014, the department must, by rule, create a geoduck diver safety program and establish safety requirements for geoduck divers licensed under RCW 77.65.410. The department must adopt rules based on the recommendation of the geoduck harvest safety committee established in section 4 of this act.

(2) The department may adopt, amend, or repeal rules as needed to ensure the success and effectiveness of the geoduck diver safety program created under subsection (1) of this section. The department must consider the recommendations provided by the geoduck harvest safety committee under section 4(3) of this act.

(3) The department may not adopt rules in conflict with commercial diving safety standards and regulations promulgated and implemented by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 (84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq.).

(4) A civil suit or action may not be commenced or prosecuted against the administrator, department, or any other government officer or entity by reason of any actions taken in connection with the adoption or enforcement of the geoduck diver safety program and safety requirements established under subsections (1) and (2) of this section. The state of Washington does not waive its sovereign immunity with respect to any actions taken by the department under this section.

Sec. 6. RCW 79.135.210 and 2005 c 155 s 708 and 2005 c 113 s 3 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 79.135.040, geoducks shall be sold as valuable materials under the provisions of chapter 79.90 RCW. After confirmation of the sale, the department may enter into an agreement with the purchaser for the harvesting of geoducks. The department may place terms and conditions in the harvesting agreements as the department deems necessary. The department may enforce the provisions of any harvesting agreement by suspending or canceling the harvesting agreement or through any other means contained in the harvesting agreement. Any geoduck harvester may terminate a harvesting agreement entered into pursuant to this subsection if actions of a governmental agency, beyond the control of the harvester, its agents, or its employees, prohibit harvesting, for a period exceeding thirty days during the term of the harvesting agreement, except as provided within the agreement. Upon termination of the agreement by the harvester, the harvester shall be reimbursed by the department for the cost paid to the department on the agreement, less the value of the harvest already accomplished by the harvester under the agreement.

(2) Harvesting agreements under this title for the purpose of harvesting geoducks shall require the harvester and the harvester's agent or representatives to comply with all applicable commercial diving safety standards and regulations promulgated and implemented by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 as the law exists or as amended (84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq.). However, for the purposes of this section and RCW 77.60.070, all persons who dive for geoducks are deemed to be employees as defined by the federal occupational safety and health act. All harvesting agreements shall provide that failure to comply with these standards is cause for suspension or cancellation of the harvesting agreement. Further, for the purposes of this subsection if the harvester contracts with another person or entity for the harvesting of geoducks, the harvesting agreement shall not be suspended or canceled if the harvester terminates its business

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relationship with such an entity until compliance with this subsection is secured.

(3) Beginning January 1, 2015, geoduck divers licensed under RCW 77.65.410 must annually complete the geoduck diver safety program established in section 5 of this act in order to be maintained on a department of natural resources' harvest agreement plan of operation.

NEW SECTION. Sec. 7. The department of fish and wildlife may adopt any rules deemed necessary to implement sections 1 through 3 of this act."

Senator Pearson 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 Natural Resources & Parks to Second Substitute House Bill No. 1764.

The motion by Senator Pearson 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 "licenses;" strike the remainder of the title and insert "amending RCW 77.65.410; reenacting and amending RCW 79.135.210; adding a new section to chapter 77.65 RCW; adding new sections to chapter 43.30 RCW; creating new sections; and providing an expiration date."

MOTION

On motion of Senator Pearson, the rules were suspended, Second Substitute House Bill No. 1764 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 Pearson and Rolfes 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. 1764 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1764 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

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

Voting nay: Senators Braun and Holmquist Newbry

Excused: Senators Carrell and Shin

SECOND SUBSTITUTE HOUSE BILL NO. 1764 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

2013 REGULAR SESSION

SUBSTITUTE HOUSE BILL NO. 1941, by House Committee on Transportation (originally sponsored by Representatives Habib, Clibborn and Springer)

Concerning the adjudication of tolls and accompanying civil penalties.

The measure was read the second time.

MOTION

Senator Eide moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.63.160 and 2011 c 367 s 705 are each amended to read as follows:

(1) This section applies only to civil penalties for nonpayment of tolls detected through use of photo toll systems.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) A notice of civil penalty may be issued by the department of transportation when a toll is assessed through use of a photo toll system and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(4) Any registered owner or renter of a vehicle traveling upon a toll facility operated under chapter 47.56 or 47.46 RCW is subject to a civil penalty governed by the administrative procedures set forth in this section when the vehicle incurs a toll charge and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(5)(a) Consistent with chapter 34.05 RCW, the department of transportation shall develop an administrative adjudication process to review appeals of civil penalties issued by the department of transportation for toll nonpayment detected through the use of a photo toll system under this section. The department of transportation shall submit to the transportation committees of the legislature an annual report on the number of times adjudicators reduce or dismiss the civil penalty as provided in (b) of this subsection and the total amount of the civil penalties dismissed. The report must be submitted by December 1st of each year.

(b) During the adjudication process, the alleged violator must have an opportunity to explain mitigating circumstances. Hospitalization, a divorce decree or legal separation agreement resulting in a transfer of the vehicle, an active duty member of the military or national guard covered by the federal servicemembers civil relief act, 50 U.S.C. Sec. 501 et seq., or state service members' civil relief act, chapter 38.42 RCW, eviction, homelessness, the death of the alleged violator or of an immediate family member, or if the alleged violator did not receive a toll charge bill or notice of civil penalty are valid mitigating circumstances. All of these reasons that constitute mitigating circumstances must occur within a reasonable time of the alleged toll violation. In response to these circumstances, the adjudicator may reduce or dismiss the civil penalty.

(6) The use of a photo toll system is subject to the following requirements:

(a) Photo toll systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of civil penalty must include with it a certificate or facsimile thereof, based upon inspection of photographs,

microphotographs, videotape, or other recorded images produced by a photo toll system, stating the facts supporting the notice of civil penalty. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding established under subsection (5) of this section. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the toll nonpayment civil penalty must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the civil penalty.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this ~~(chapter)~~ section are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under this ~~(chapter)~~ section. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under this section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

(d) All locations where a photo toll system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where tolls are assessed and enforced by a photo toll system.

(e) Within existing resources, the department of transportation shall conduct education and outreach efforts at least six months prior to activating an all-electronic photo toll system. Methods of outreach shall include a department presence at community meetings in the vicinity of a toll facility, signage, and information published in local media. Information provided shall include notice of when all electronic photo tolling shall begin and methods of payment. Additionally, the department shall provide quarterly reporting on education and outreach efforts and other data related to the issuance of civil penalties.

(f) The envelope containing a toll charge bill or related notice issued pursuant to RCW 47.46.105 or 47.56.795, or a notice of civil penalty issued under this section, must prominently indicate that the contents are time sensitive and related to a toll violation.

(7) Civil penalties for toll nonpayment detected through the use of photo toll systems must be issued to the registered owner of the vehicle identified by the photo toll system, but are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120.

(8) The civil penalty for toll nonpayment detected through the use of a photo toll system is forty dollars plus the photo toll and associated fees.

(9) Except as provided otherwise in this subsection, all civil penalties, including the photo toll and associated fees, collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed. However, through June 30, 2013, civil penalties deposited into the Tacoma Narrows toll bridge account created under RCW 47.56.165 that are in excess of amounts necessary to support the toll adjudication process applicable to toll collection on the Tacoma Narrows bridge must first be allocated toward repayment of operating loans and reserve payments provided to the account from the motor vehicle account under section 1005(15), chapter 518, Laws of 2007. Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520 civil penalties account created under section 4, chapter 248, Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June 30, 2010.

(10) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a toll bill is issued, provide a written notice to the rental car business that a toll bill may be issued to the rental car business if the rental car business does not, within thirty days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the toll was assessed; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the toll was assessed because the vehicle was stolen at the time the toll was assessed. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing agency relieves a rental car business of any liability under this section for the payment of the toll.

(11) Consistent with chapter 34.05 RCW, the department of transportation shall develop rules to implement this section.

(12) For the purposes of this section, "photo toll system" means the system defined in RCW 47.56.010 and 47.46.020."

Senator Eide 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 Transportation to Substitute House Bill No. 1941.

The motion by Senator Eide 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 "penalties;" strike the remainder of the title and insert "and amending RCW 46.63.160."

MOTION

On motion of Senator Eide, the rules were suspended, Substitute House Bill No. 1941 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 Eide and King spoke in favor of passage of the bill.

MOTION

On motion of Senator Hobbs, Senator Hatfield was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1941 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1941 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 Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry,

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

Excused: Senators Carrell and Shin

SUBSTITUTE HOUSE BILL NO. 1941 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. 1445, by House Committee on Appropriations Subcommittee on Health & Human Services (originally sponsored by Representatives Cody, Green, Jinkins and Morrell)

Concerning complex rehabilitation technology products.

The measure was read the second time.

MOTION

Senator Becker moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to:

- (1) Protect access for complex needs patients to important technology and supporting services;
- (2) Establish and improve safeguards relating to the delivery and provision of medically necessary complex rehabilitation technology; and
- (3) Provide supports for complex needs patients to stay in the home or community setting, prevent institutionalization, and prevent hospitalizations and other costly secondary complications.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

- (1) The authority shall establish a separate recognition for individually configured, complex rehabilitation technology products and services for complex needs patients with the medical assistance program. This separate recognition shall:
 - (a) Establish a budget and services category separate from other categories, such as durable medical equipment and supplies;
 - (b) Take into consideration the customized nature of complex rehabilitation technology and the broad range of services necessary to meet the unique medical and functional needs of people with complex medical needs; and
 - (c) Establish standards for the purchase of complex rehabilitation technology exclusively from qualified complex rehabilitation technology suppliers.
- (2) The authority shall require complex needs patients receiving complex rehabilitation technology to be evaluated by:
 - (a) A licensed health care provider who performs specialty evaluations within his or her scope of practice, including a physical therapist licensed under chapter 18.74 RCW and an occupational therapist licensed under chapter 18.59 RCW, and has no financial relationship with the qualified complex rehabilitation technology supplier; and
 - (b) A qualified complex rehabilitation technology professional, as identified in subsection (3)(d)(iii) of this section.
- (3) As used in this section:
 - (a) "Complex needs patient" means an individual with a diagnosis or medical condition that results in significant physical or functional needs and capacities. "Complex needs patient" does not

negate the requirement that an individual meet medical necessity requirements under authority rules to qualify for receiving a complex rehabilitation product.

(b) "Complex rehabilitation technology" means wheelchairs and seating systems classified as durable medical equipment within the medicare program as of January 1, 2013, that:

- (i) Are individually configured for individuals to meet their specific and unique medical, physical, and functional needs and capacities for basic activities of daily living and instrumental activities of daily living identified as medically necessary to prevent hospitalization or institutionalization of a complex needs patient;
- (ii) Are primarily used to serve a medical purpose and generally not useful to a person in the absence of an illness or injury; and
- (iii) Require certain services to allow for appropriate design, configuration, and use of such item, including patient evaluation and equipment fitting and configuration.

(c) "Individually configured" means a device has a combination of features, adjustments, or modifications specific to a complex needs patient that a qualified complex rehabilitation technology supplier provides by measuring, fitting, programming, adjusting, or adapting the device as appropriate so that the device is consistent with an assessment or evaluation of the complex needs patient by a health care professional and consistent with the complex needs patient's medical condition, physical and functional needs and capacities, body size, period of need, and intended use.

(d) "Qualified complex rehabilitation technology supplier" means a company or entity that:

- (i) Is accredited by a recognized accrediting organization as a supplier of complex rehabilitation technology;
- (ii) Meets the supplier and quality standards established for durable medical equipment suppliers under the medicare program;
- (iii) For each site that it operates, employs at least one complex rehabilitation technology professional, who has been certified by the rehabilitation engineering and assistive technology society of North America as an assistive technology professional, to analyze the needs and capacities of complex needs patients, assist in selecting appropriate covered complex rehabilitation technology items for such needs and capacities, and provide training in the use of the selected covered complex rehabilitation technology items;
- (iv) Has the complex rehabilitation technology professional physically present for the evaluation and determination of the appropriate individually configured complex rehabilitation technologies for the complex needs patient;
- (v) Provides service and repairs by qualified technicians for all complex rehabilitation technology products it sells; and
- (vi) Provides written information to the complex needs patient at the time of delivery about how the individual may receive service and repair.

NEW SECTION. Sec. 3. This act takes effect January 1, 2014."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1445.

The motion by Senator Becker 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 "products;" strike the remainder of the title and insert "adding a new section to chapter

74.09 RCW; creating a new section; and providing an effective date."

MOTION

On motion of Senator Becker, the rules were suspended, Engrossed Second Substitute House Bill No. 1445 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 Becker and Keiser spoke in favor of passage of the bill.

MOTION

On motion of Senator Nelson, Senator Chase was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1445 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1445 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 Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Smith and Tom

Excused: Senators Carrell, Chase and Shin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1445 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. 1256, by House Committee on Transportation (originally sponsored by Representatives Fey, Orcutt, Tarleton, Jinkins and Morrell)

Addressing project selection by the freight mobility strategic investment board.

The measure was read the second time.

MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1256 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King, Eide 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. 1256.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1256 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Holmquist Newbry

Excused: Senators Carrell and Shin

SUBSTITUTE HOUSE BILL NO. 1256, 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.

The Senate resumed consideration of Substitute House Bill No. 1466 which had been deferred earlier in the day.

Senator Dammeier spoke in favor of the committee striking amendment as amended.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Substitute House Bill No. 1466.

The motion by Senator Dammeier carried and the committee striking amendment as amended was adopted by a rising vote.

MOTION

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

On page 1, line 2 of the title, after "procedures;" strike the remainder of the title and insert "amending RCW 39.10.220, 39.10.230, 39.10.240, 39.10.250, 39.10.260, 39.10.270, 39.10.280, 39.10.300, 39.10.320, 39.10.330, 39.10.340, 39.10.360, 39.10.380, 39.10.385, 39.10.390, 39.10.400, 39.10.420, 39.10.440, 39.10.490, 43.131.407, and 43.131.408; reenacting and amending RCW 39.10.210; adding a new section to chapter 43.131 RCW; repealing RCW 39.10.500 and 39.10.510; providing an effective date; providing a contingent effective date; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator Dammeier, the rules were suspended, Substitute House Bill No. 1466 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 Dammeier and Hasegawa 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. 1466 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1466 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Hearing Loss and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Excused: Senators Carrell and Shin

Absent: Senator Kline

SUBSTITUTE HOUSE BILL NO. 1466 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.

Excused: Senators Carrell, Harper, Nelson and Shin
Ariele Belo, Gubernatorial Appointment No. 9077, having received the constitutional majority was declared confirmed as a member of the Board of Trustees for the Center of Childhood Deafness and Hearing Loss.

MOTION

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

MOTION

On motion of Senator Billig, Senator Kline was excused.

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

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

MOTION

At 6:06 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1432, by House Committee on Finance (originally sponsored by Representatives Stanford, Hope, Moscoso, Springer, Hayes, Roberts, McCoy, Lias, Kristiansen and Sells)

EVENING SESSION

The Senate was called to order at 6:45 p.m. by President Owen.

Concerning county property tax levies.

MOTION

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

The measure was read the second time.

MOTION

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

Senator Hobbs moved that the following amendment by Senator Rolfes be adopted:

On page 2, after line 35, insert the following:

"(4) Subsections (2) and (3) of this section do not preclude a county from increasing the levy amount in subsection (1) of this section to an amount that is greater than the change in the regular county levy."

Senator Dammeier moved that Ariele Belo, Gubernatorial Appointment No. 9077, be confirmed as a member of the Board of Trustees for the Center of Childhood Deafness and Hearing Loss.

On page 4, after line 26, insert the following:

"(6) Subsections (2), (4), and (5) of this section do not preclude a county from increasing the levy amount in subsection (1) of this section to an amount that is greater than the change in the regular county levy."

Senator Dammeier spoke in favor of the motion.

Senators Hobbs, Rolfes and Hill spoke in favor of adoption of the amendment.

MOTION

On motion of Senator Billig, Senators Harper and Nelson were excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rolfes on page 2, after line 35 to Engrossed Substitute House Bill No. 1432.

APPOINTMENT OF ARIELE BELO

The President declared the question before the Senate to be the confirmation of Ariele Belo, Gubernatorial Appointment No. 9077, as a member of the Board of Trustees for the Center of Childhood Deafness and Hearing Loss.

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

MOTION

The Secretary called the roll on the confirmation of Ariele Belo, Gubernatorial Appointment No. 9077, as a member of the Board of Trustees for the Center of Childhood Deafness and

On motion of Senator Hill, the rules were suspended, Engrossed Substitute House Bill No. 1432 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 Hill 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. 1432 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1432 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Carrell, Harper, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1432 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. 1144, by House Committee on Education (originally sponsored by Representatives Dahlquist, Lytton, Fagan, Haigh, Moscoso, Magendanz, Liias, Ryu and Santos)

Regarding qualifications for educational interpreters.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Dammeier be adopted:

On page 2, beginning on line 20, after "(4)" strike all material through "deaf." on line 24 and insert "By December 31, 2013, the professional educator standards board shall recommend to the education committees of the house of representatives and the senate, how to appropriately use the national interpreter certification and the educational interpreter performance assessment for educational interpreters in Washington public schools."

Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Dammeier on page 2, line 20 to Substitute House Bill No. 1144.

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

MOTION

On motion of Senator Dammeier, the rules were suspended, Substitute House Bill No. 1144 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 Dammeier and McAuliffe 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. 1144 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1144 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Carrell, Harper, Nelson and Shin

SUBSTITUTE HOUSE BILL NO. 1144 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. 1247, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Hansen, Warnick, Smith, Zeiger, Fey, Springer, Tharinger and Santos)

Modifying job skills program provisions.

The measure was read the second time.

MOTION

On motion of Senator Bailey, the rules were suspended, Engrossed Substitute House Bill No. 1247 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Bailey spoke in favor of passage of the bill.

REMARKS BY THE PRESIDENT

President Owen: "I am. Every word. Senator. Please state your point of order."

POINT OF ORDER

Senator Roach: "I'm listening."

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 Engrossed Substitute House Bill No. 1247.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1247 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove,

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Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Smith and Tom

Excused: Senators Carrell, Harper and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1247, 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. 1370, by House Committee on Judiciary (originally sponsored by Representative Seaquist)

Concerning notice requirements for homeowners' associations meetings.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1370 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1370.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1370 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Harper and Shin

SUBSTITUTE HOUSE BILL NO. 1370, 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. 1499, by House Committee on Appropriations Subcommittee on Health & Human Services (originally sponsored by Representatives Jinkins, Harris, Cody, Fitzgibbon, Ryu, Roberts, Fey and Pollet)

Concerning the program of all-inclusive care for the elderly.

The measure was read the second time.

MOTION

On motion of Senator Becker, the rules were suspended, Substitute House Bill No. 1499 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Becker and Keiser 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. 1499.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1499 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Harper and Shin

SUBSTITUTE HOUSE BILL NO. 1499, 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. 1021, by House Committee on Judiciary (originally sponsored by Representative Haler)

Educating parents of the harmful effects of parental abduction.

The measure was read the second time.

MOTION

On motion of Senator Padden, the rules were suspended, Substitute House Bill No. 1021 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Padden 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. 1021.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1021 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Harper and Shin

SUBSTITUTE HOUSE BILL NO. 1021, 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. 1525, by House Committee on Judiciary (originally sponsored by Representatives Orwall, Pedersen, Goodman, Hunt, Roberts, Upthegrove, Ryu and Jinkins)

Concerning birth certificates and other birth-related information.

The measure was read the second time.

MOTION

Senator Pearson 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:

"Sec. 1. RCW 26.33.345 and 1993 c 81 s 3 are each amended to read as follows:

(1) The department of social and health services, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of parental rights or finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(2) The department of health shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request.

(3)(a) For adoptions finalized after October 1, 1993, the department of health shall ~~((make available))~~ provide a noncertified copy of the original birth certificate to ~~((the adoptee after the adoptee's eighteenth birthday unless the birth parent has filed an affidavit of nondisclosure))~~ an adoptee eighteen years of age or older upon request, unless the birth parent has filed an affidavit of nondisclosure before the effective date of this section or a contact preference form that indicates he or she does not want the original birth certificate released: PROVIDED, That the affidavit of nondisclosure, the contact preference form, or both have not expired.

(b) For adoptions finalized on or before October 1, 1993, the department of health may not provide a noncertified copy of the original birth certificate to the adoptee until after June 30, 2014. After June 30, 2014, the department of health shall provide a noncertified copy of the original birth certificate to an adoptee eighteen years of age or older upon request, unless the birth parent has filed a contact preference form that indicates he or she does not want the original birth certificate released: PROVIDED, That the contact preference form has not expired.

(c) An affidavit of nondisclosure expires upon the death of the birth parent.

(4)(a) Regardless of whether a birth parent has filed an affidavit of nondisclosure or when the adoption was finalized, a birth parent may at any time complete a contact preference form stating his or her preference about personal contact with the adoptee, which, if available, must accompany an original birth certificate provided to an adoptee under subsection (3) of this section.

(b) The contact preference form must include the following options:

(i) I would like to be contacted. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate;

(ii) I would like to be contacted only through a confidential intermediary as described in RCW 26.33.343. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate;

(iii) I prefer not to be contacted and have completed the birth parent updated medical history form. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate; and

(iv) I prefer not to be contacted and have completed the birth parent updated medical history form. I do not want a noncertified copy of the original birth certificate released to the adoptee.

(c) If the birth parent indicates he or she prefers not to be contacted, personally identifying information on the contact preference form must be kept confidential and may not be released.

(d) Nothing in this section precludes a birth parent from subsequently filing another contact preference form to rescind the previous contact preference form and state a different preference.

(e) A contact preference form expires upon the death of the birth parent.

(5) If a birth parent files a contact preference form, the birth parent must also file an updated medical history form with the department of health. Upon request of the adoptee, the department of health must provide the adoptee with the updated medical history form filed by the adoptee's birth parent.

(6) Both a completed contact preference form and birth parent updated medical history form are confidential and must be placed in the adoptee's sealed file.

(7) If a birth parent files a contact preference form within six months after the first time an adoptee requests a copy of his or her original birth certificate as provided in subsection (3) of this section, the department of health must forward the contact preference form and the birth parent updated medical history form to the address of the adoptee.

(8) The department of health may charge a fee not to exceed twenty dollars for providing a noncertified copy of a birth certificate to an adoptee.

(9) The department of health must create the contact preference form and an updated medical history form. The contact preference form must provide a method to ensure personally identifying information can be kept confidential. The updated medical history form may not require the birth parent to disclose any identifying information about the birth parent.

(10) If the department of health does not provide an adoptee with a noncertified copy of the original birth certificate because a valid affidavit of nondisclosure or contact preference form has been filed, the adoptee may request, no more than once per year, that the department of health attempt to determine if the birth parent is deceased. Upon request of the adoptee, the department of health must make a reasonable effort to search public records that are accessible and already available to the department of health to determine if the birth parent is deceased. The department of health may charge the adoptee a reasonable fee to cover the cost of conducting a search."

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 Substitute House Bill No. 1525.

The motion by Senator Pearson 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 "information;" strike the remainder of the title and insert "and amending RCW 26.33.345."

MOTION

On motion of Senator Pearson, the rules were suspended, Substitute House Bill No. 1525 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 Pearson, Smith, Keiser, Rivers and Parlette spoke in favor of passage of the bill.

Senator Hargrove spoke against passage of the bill.

Senator Darneille spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1525 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1525 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

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

Voting nay: Senators Eide, Fraser, Hargrove, Holmquist Newbry, Honeyford, McAuliffe, Nelson and Padden

Excused: Senators Carrell and Shin

SUBSTITUTE HOUSE BILL NO. 1525 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. 1534, by Representatives Riccelli, Harris, Ryu and Jinkins

Increasing the impaired dentist program license or renewal surcharge.

The measure was read the second time.

MOTION

On motion of Senator Becker, the rules were suspended, House Bill No. 1534 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Schlicher spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1534.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1534 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Holmquist Newbry

Excused: Senators Carrell and Shin

HOUSE BILL NO. 1534, 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. 1688, by House Committee on Education (originally sponsored by Representatives Stonier, Pike, Santos, Hayes, Orwall, Bergquist, McCoy, Scott, Ryu, Pollet, Freeman, Farrell and Parker)

Establishing a requirement and system for reporting incidents of student restraint and isolation in public schools. Revised for 1st Substitute: Establishing a requirement and system for reporting incidents of student restraint and isolation in public schools. (REVISED FOR ENGROSSED: Establishing a requirement and system for reporting incidents of student restraint and isolation in public schools for students who have an individualized education program or plan developed under section 504 of the rehabilitation act of 1973.)

The measure was read the second time.

MOTION

Senator Litzow moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. **Sec. 1.** The legislature finds that preserving a safe and beneficial learning environment for all students requires the establishment and enforcement of appropriate student discipline policies. The legislature further finds that although physical restraint and isolation of a student should be avoided, there may be circumstances where school district boards of directors have authorized these actions to preserve the safety of other students and school staff. Nevertheless, if an incident of student restraint or isolation occurs, school personnel should be held accountable for providing a thorough explanation of the circumstances.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.600 RCW to read as follows:

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

(a) "Isolation" means excluding a student from his or her regular instructional area and restricting the student alone within a room or any other form of enclosure, from which the student may not leave.

(b) "Restraint" means physical intervention or force used to control a student, including the use of a restraint device.

(c) "Restraint device" means a device used to assist in controlling a student, including but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons.

(2) The provisions of this section apply only to any restraint of a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973 that results in a physical injury to a student or a staff member, any restraint of a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973, and any isolation of a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973. The provisions of this section apply only to incidents of restraint or isolation that occur while a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973 is participating in school-sponsored instruction or activities.

(3) Following the release of a student from the use of restraint or isolation, the school must implement follow-up procedures. These procedures must include reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation and reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed.

(4) Any school employee, resource officer, or school security officer who uses any chemical spray, mechanical restraint, or physical force on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report should include, at a minimum, the following information:

- (a) The date and time of the incident;
- (b) The name and job title of the individual who administered the restraint or isolation;
- (c) A description of the activity that led to the restraint or isolation;
- (d) The type of restraint or isolation used on the student, including the duration; and
- (e) Whether the student or staff was physically injured during the restraint or isolation and any medical care provided.

(5) The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.155 RCW to read as follows:

A school that is required to develop an individualized education program as required by federal law must include within the plan procedures for notification of a parent or guardian regarding the use of restraint or isolation.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.600 RCW to read as follows:

Parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973 must be provided a copy of the district policy on the use of isolation and restraint at the time that the program or plan is created."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1688.

The motion by Senator Litzow 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 "schools;" strike the remainder of the title and insert "adding new sections to chapter 28A.600 RCW; adding a new section to chapter 28A.155 RCW; and creating a new section."

MOTION

On motion of Senator Litzow, the rules were suspended, Engrossed Substitute House Bill No. 1688 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 Litzow and McAuliffe 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. 1688 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1688 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 Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Smith and Tom

Excused: Senators Carrell and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1688 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. 1036, by Representatives Kirby, Ryu and Schmick

Regulating service contracts.

The measure was read the second time.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, House Bill No. 1036 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Holmquist Newbry and Conway 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. 1036.

ROLL CALL

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The Secretary called the roll on the final passage of House Bill No. 1036 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Carrell and Shin

HOUSE BILL NO. 1036, 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. 1552, by House Committee on Public Safety (originally sponsored by Representatives Goodman, Klippert, Freeman, Kirby, Morrell, Seaquist, Sullivan, Appleton, Ryu, Hunt, Stanford, Kochmar, Maxwell, Takko, Bergquist, Warnick, Manweller, Green and Fey)

Reducing scrap metal theft.

The measure was read the second time.

MOTION

Senator Padden moved that the following committee striking amendment by the Committee on Law & Justice be not adopted:

Strike everything after the enacting clause and insert the following:

Sec. 1. RCW 9A.48.100 and 1984 c 273 s 4 are each amended to read as follows:

For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive:

(1) "Physical damage", in addition to its ordinary meaning, shall include the total or partial alteration, damage, obliteration, or erasure of records, information, data, computer programs, or their computer representations, which are recorded for use in computers or the impairment, interruption, or interference with the use of such records, information, data, or computer programs, or the impairment, interruption, or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property as the consequence of an act and the cost to repair any physical damage;

(2) If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute mischief in the third degree because of value, then the value of the damages may be aggregated in one count. If the sum of the value of all the physical damages exceeds two hundred fifty dollars, the defendant may be charged with and convicted of malicious mischief in the second degree.

Sec. 2. RCW 9A.56.030 and 2012 c 233 s 2 are each amended to read as follows:

(1) A person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) five thousand dollars in value other than a firearm as defined in RCW 9.41.010;

(b) Property of any value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, taken from the person of another;

(c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty; or

(d) ~~Commercial metal ((wire, taken from a public service company, as defined in RCW 80.04.010, or a consumer owned utility, as defined in RCW 19.280.020;)) property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the ((public service company's or consumer owned utility's)) owner's property exceed five thousand dollars in value.~~

(2) Theft in the first degree is a class B felony.

Sec. 3. RCW 9A.56.040 and 2012 c 233 s 3 are each amended to read as follows:

(1) A person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle;

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant;

(c) ~~Commercial metal ((wire, taken from a public service company, as defined in RCW 80.04.010, or a consumer owned utility, as defined in RCW 19.280.020;)) property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the ((public service company's or consumer owned utility's)) owner's property exceed seven hundred fifty dollars but does not exceed five thousand dollars in value; or~~

(d) An access device.

(2) Theft in the second degree is a class C felony.

Sec. 4. RCW 19.290.010 and 2008 c 233 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.

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

(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.

(10) "Scrap metal ~~((recycling center))~~ recycler" 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.

(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))~~ recycler or scrap metal processor and that does not maintain a fixed business location in the state.

(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.

(13) "Engage in business" means conducting more than five transactions in a twelve-month period.

(14) "Person" means an individual, domestic or foreign corporation, limited liability corporation, partnership, trust, unincorporated association, or other entity; an affiliate or associate of any such person; or any two or more persons acting as a partnership, syndicate, or other group for the purpose of acquiring, holding, or dispersing of securities of a domestic or foreign corporation.

Sec. 5. RCW 19.290.020 and 2008 c 233 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))~~ utilizing the institute of scrap recycling industries' ((scrap specifications circular, 2006)) generally accepted terminology, and including 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))~~ five years following the date of the transaction.

Sec. 6. RCW 19.290.030 and 2008 c 233 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)(a) 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 street address under the requirements of RCW 19.290.020 except as described in (b) of this subsection. ~~((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))~~ three days after the transaction was made. A transaction occurs on the date provided in the record required under RCW 19.290.020.

(b) A scrap metal business that is in compliance with this chapter that digitally captures: (i) a copy of one piece of current government-issued picture identification, including a current driver's license or identification card issued by any state and (ii) either a picture or video of either the material subject to the transaction in the form received or the material subject to the transaction within the vehicle which the material was transported to the scrap metal business, may pay up to a maximum of thirty dollars

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in cash, stored value device, or electronic funds transfer. The balance of the value of the transaction may be made by nontransferable check, stored value device, or electronic funds transfer at the time the transaction is made. A scrap metal business's usage of video surveillance shall be sufficient to comply with this subsection (4)(b)(ii) as long as the video captures the material subject to the transaction. A digital image or picture taken under this subsection must be available for two years from the date of transaction, while a video recording must be available for thirty days.

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

Sec. 7. RCW 19.290.040 and 2008 c 233 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 record must be maintained for three years following the date of the transfer or receipt. 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. 8. RCW 19.290.050 and 2008 c 233 s 5 are each amended to read as follows:

(1) Upon written 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 only a (specific) specified individual, vehicle, or item of private metal property, nonferrous metal property, or commercial metal property. Any written request shall become an addition to the permanent records required under RCW 19.290.020 or 19.290.040. 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. A scrap metal business shall not be required (a) to furnish a transcript of its records for a specified time period without reference to a specified individual, vehicle, or item of private metal property, nonferrous metal property, or commercial metal property, or (b) to furnish any requested transcript under this section to any party other than directly to the applicable law enforcement agency, as required by this section. For purposes of this subsection, the term "law enforcement agency" does not include any third-party agency

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contracted by a law enforcement agency or commercial for profit entity acting on behalf of a law enforcement agency.

(2) Any records created or produced under this section are exempt from disclosure under chapter 42.56 RCW.

(3) 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.

(4) Compliance with this section shall not give rise to or form the basis of private civil liability on the part of a scrap metal business or scrap metal recycler.

Sec. 9. RCW 19.290.060 and 2008 c 233 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. 10. RCW 19.290.070 and 2008 c 233 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))~~ four 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); or

(9) Any person to knowingly make a false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, with the intent to deceive a scrap metal business as to the actual seller of the scrap metal.

Sec. 11. RCW 19.290.090 and 2008 c 233 s 8 are each amended to read as follows:

The provisions of this chapter do not apply to transactions involving metal from the components of vehicles acquired by vehicle wreckers, hulk haulers, or scrap processors licensed under chapter 46.79 or 46.80 RCW, and acquired in accordance with those laws or transactions conducted by the following:

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

~~(2) ((Metal from the components of 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

~~((4))~~ (3) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

NEW SECTION. Sec. 12. A new section is added to chapter 19.290 RCW to read as follows:

(1) It is unlawful for a person to engage in the business of a scrap metal processor, scrap metal recycler, or scrap metal supplier without having first applied for and received a scrap metal license.

(2)(a) Except as provided in (b) of this subsection, a person or firm engaged in the unlawful activity described in this section is guilty of a gross misdemeanor.

(b) A second or subsequent offense is a class C felony.

NEW SECTION. Sec. 13. A new section is added to chapter 19.290 RCW to read as follows:

Application for a scrap metal license or renewal of a scrap metal license shall be made on a form for this purpose, furnished by the department of licensing, and shall be signed by the license holder or his or her authorized agent and shall include the following information:

(1) Name and address of the person, firm, partnership, association, limited liability company, or corporation under which name the business is to be conducted;

(2) Names and residence address of all persons having an interest in the business or, if the owner is a corporation, the names and addresses of the officers thereof;

(3) Certificate of approval of the chief executive officer or chief of police, or a designee, if the application is for a license within an incorporated city or town or, in any unincorporated area, the county legislative authority, the sheriff, or a designee, certifying that:

(a) The applicant has an established place of business at the address shown on the application;

(b) There are no known environmental, building code, zoning, or other land use regulation violations associated with the business being located at the address; and

(c) In the case of a renewal of a scrap metal license, the applicant is in compliance with this chapter: **PROVIDED**, That an authorized representative of the department of licensing may make the certification described in this section in any instance;

(4) Any other information that the department of licensing may require.

NEW SECTION. Sec. 14. A new section is added to chapter 19.290 RCW to read as follows:

The application, together with the required fee, shall be forwarded to the department of licensing. Upon receipt of the application the department shall, if the application is in order, issue a scrap metal license authorizing the processor, recycler, or supplier to do business as such and forward the fee to the state treasurer. Upon receiving the certificate, the owner shall cause it to be prominently displayed in the place of business, where it may be inspected by an investigating officer at any time. Every license must be issued in the name of the applicant and the holder thereof may not allow any other person to use the license.

NEW SECTION. Sec. 15. A new section is added to chapter 19.290 RCW to read as follows:

Before issuing a scrap metal license to a scrap metal processor or scrap metal recycler, the department of licensing shall require the applicant to file with the department a surety bond in the amount of ten thousand dollars, running to the state of Washington, and executed by a surety company authorized to do business in the state of Washington. The bond shall be approved as to form by the attorney general and conditioned upon the licensee conducting the business in conformity with the provisions of this chapter. Except as prohibited elsewhere in this chapter, any person who has suffered loss or damage by reason of fraud or gross negligence, or an intentional or reckless violation of the terms of this chapter, or misrepresentation on the part of the scrap metal processor or recycler, may institute an action for recovery against the licensee and surety upon the bond. However, the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond.

NEW SECTION. Sec. 16. A new section is added to chapter 19.290 RCW to read as follows:

A license issued on the scrap metal license application remains in force until suspended or revoked and may be renewed annually upon reapplication and upon payment of the required fee. A licensee who fails or neglects to renew the license before the assigned expiration date shall pay the fee for an original scrap metal license as provided in this chapter.

Whenever a scrap metal processor, recycler, or supplier ceases to do business as such or the license has been suspended or revoked, the licensee shall immediately surrender the license to the department of licensing.

NEW SECTION. Sec. 17. A new section is added to chapter 19.290 RCW to read as follows:

The licensee shall obtain a special set of license plates in addition to the regular licenses and plates required for the operation of such vehicles. The special plates must be displayed on vehicles owned and/or operated by the licensee and used in the conduct of the business. The fee for these plates shall be five dollars for the original plates and two dollars for each additional set of plates bearing the same license number. A licensee with more than one licensed location in the state may use special plates bearing the same license number for vehicles operated out of any of the licensed locations.

NEW SECTION. Sec. 18. A new section is added to chapter 19.290 RCW to read as follows:

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The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 19. A new section is added to chapter 19.290 RCW to read as follows:

If a person whose scrap metal license has previously been canceled for cause by the department of licensing files an application for a license to conduct business as a scrap metal processor, recycler, or supplier, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department may refuse to issue the person a license to conduct business as a scrap metal processor, recycler, or supplier.

NEW SECTION. Sec. 20. A new section is added to chapter 19.290 RCW to read as follows:

(1) The director of licensing is hereby authorized to adopt reasonable rules and regulations not in conflict with provisions hereof for the proper operation and enforcement of this chapter.

(2) The director shall set all license and renewal fees in accordance with RCW 43.24.086.

NEW SECTION. Sec. 21. A new section is added to chapter 19.290 RCW to read as follows:

The chiefs of police, the county sheriffs, and the Washington state patrol may make periodic inspection of the licensee's licensed premises and records provided for in this chapter during normal business hours, and furnish a certificate of inspection to the department of licensing in such manner as may be determined by the department. In any instance, an authorized representative of the department may make the inspection. Licensees are subject to unannounced periodic inspections, as described in this section.

NEW SECTION. Sec. 22. A new section is added to chapter 19.290 RCW to read as follows:

The state of Washington hereby fully occupies and preempts the entire field of regulation of scrap metal processors, recyclers, or suppliers within the boundaries of the state. Any political subdivision in this state may enact or enforce only those laws and ordinances relating to the regulation of scrap metal processors, recyclers, or suppliers that are specifically authorized by state law and are consistent with this chapter. Nothing in this chapter is intended to limit the authority of any political subdivision to impose generally applicable zoning, land use, permitting, general business licensing, environmental, and health and safety requirements or authorized business taxes upon scrap metal processors, recyclers, or suppliers within their jurisdictions. Local ordinances pertaining specifically to scrap metal processors, recyclers, or suppliers shall have the same or lesser penalty as provided for by state law. Local scrap metal laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be enacted and are hereby preempted and repealed, regardless of the code, charter, or home rule status of such political subdivision.

NEW SECTION. Sec. 23. A new section is added to chapter 19.290 RCW to read as follows:

(1) In addition to the powers granted in chapter 18.235 RCW, the department of licensing or its authorized agent may examine or subpoena any persons, books, papers, records, data, vehicles, or metal property bearing upon the investigation or proceeding under this chapter.

(2) The persons subpoenaed may be required to testify and produce any books, papers, records, data, vehicles, or metal property that the director of licensing deems relevant or material to the inquiry.

(3) The director of the department of licensing or an authorized agent may administer an oath to the person required to testify, and a

person giving false testimony after the administration of the oath is guilty of perjury in the first degree under RCW 9A.72.020.

(4)(a) Any authorized representative of the director of the department of licensing may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(i) State that an order is sought pursuant to this subsection;

(ii) Adequately specify the records, documents, or testimony; and

(iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(c) Any authorized representative of the director of the department of licensing may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(5) Any records created or produced under this section are exempt from disclosure under chapter 42.56 RCW.

NEW SECTION. Sec. 24. A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall establish a grant program to assist local law enforcement agencies in the support of special enforcement emphasis targeting metal theft. Grant applications shall be reviewed and awarded through peer review panels. Grant applicants are encouraged to utilize multijurisdictional efforts.

(2) Each grant applicant shall:

(a) Show a significant metal theft problem in the jurisdiction or jurisdictions receiving the grant;

(b) Verify that grant awards are sufficient to cover increased investigation, prosecution, and jail costs;

(c) Design an enforcement program that best suits the specific metal theft problem in the jurisdiction or jurisdictions receiving the grant;

(d) Demonstrate community coordination focusing on prevention, intervention, and suppression; and

(e) Collect data on performance.

(3) The cost of administering the grants shall not exceed sixty thousand dollars, or three percent of appropriated funding, whichever is greater.

(4) Grant awards may not be used to supplant preexisting funding sources for special enforcement targeting metal theft.

NEW SECTION. Sec. 25. A new section is added to chapter 19.290 RCW to read as follows:

(1) Law enforcement agencies may register with the scrap theft alert system that is maintained and provided at no charge to users by the institute of scrap recycling industries, incorporated, or its successor organization, to receive alerts regarding thefts of private, nonferrous, or commercial metal property in the relevant geographic area.

(2) Any business licensed under this chapter shall:

(a) Sign up with the scrap theft alert system that is maintained and provided at no charge to users by the institute of scrap recycling industries, incorporated, or its successor organization, to receive

alerts regarding thefts of private, nonferrous, or commercial metal property in the relevant geographic area;

(b) Download the scrap metal theft alerts generated by the scrap theft alert system on a daily basis;

(c) Use the alerts to identify potentially stolen commercial metal property, nonferrous metal property, and private metal property; and

(d) Maintain for ninety days copies of any theft alerts received and downloaded pursuant to this section.

Sec. 26. RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
	Vehicle Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))

	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)
	Explosive devices prohibited (RCW 70.74.180)
	Hit and Run--Death (RCW 46.52.020(4)(a))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Robbery 1 (RCW 9A.56.200)
	Sexual Exploitation (RCW 9.68A.040)
VIII	Arson 1 (RCW 9A.48.020)
	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
	Manslaughter 2 (RCW 9A.32.070)
	Promoting Prostitution 1 (RCW 9A.88.070)
	Theft of Ammonia (RCW 69.55.010)
	Vehicle Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
VII	Burglary 1 (RCW 9A.52.020)
	Child Molestation 2 (RCW 9A.44.086)
	Civil Disorder Training (RCW 9A.48.120)
	Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
	Drive-by Shooting (RCW 9A.36.045)
	Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
	Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
	Introducing Contraband 1 (RCW 9A.76.140)
	Malicious placement of an explosive 3 (RCW 70.74.270(3))
	Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)

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- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Driving While Under the Influence (RCW 46.61.502(6))
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run--Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))

- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Criminal Gang Intimidation (RCW 9A.46.120)
- Custodial Assault (RCW 9A.36.100)
- Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW 9A.76.180)
- Introducing Contraband 2 (RCW 9A.76.150)
- Malicious Injury to Railroad Property (RCW 81.60.070)
- Mortgage Fraud (RCW 19.144.080)
- Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
- Organized Retail Theft 1 (RCW 9A.56.350(2))
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
- Unlawful Use of a Nondesigned Vessel (RCW 77.15.530(4))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))

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- Escape from Community Custody (RCW 72.09.310)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.132)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Organized Retail Theft 2 (RCW 9A.56.350(3))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Possession of a Stolen Vehicle (RCW 9A.56.068)
- Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
- Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (section 12 of this act)
- Theft 1 (RCW 9A.56.030)
- Theft of a Motor Vehicle (RCW 9A.56.065)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
- Voyeurism (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
- Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
- Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
- Unlawful Production of Payment Instruments (RCW 9A.56.320)
- Unlawful Release of Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))
- Unlawful Trafficking in Food Stamps (RCW 9.91.142)
- Unlawful Use of Food Stamps (RCW 9.91.144)
- Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))
- Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3))
- Vehicle Prowl 1 (RCW 9A.52.095)
- Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))
- NEW SECTION. Sec. 27. A new section is added to chapter 19.290 RCW to read as follows:
 - (1) The following personal property is subject to seizure and forfeiture and no property right exists in them: All personal property including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which the seizing agency proves by a preponderance of the evidence was used or intended to be used by its owner or the person in charge to knowingly or intentionally

facilitate the commission of, or to knowingly or intentionally abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, or which the seizing agency proves by a preponderance of the evidence was knowingly or intentionally furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, a crime involving theft, trafficking, or the unlawful possession of commercial metal property, or which the property owner acquired in whole or in part with proceeds traceable to a knowing or intentional commission of a crime involving the theft, trafficking, or unlawful possession of commercial metal property provided that such activity is not less than a class C felony; except that:

(a) No vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the seizing agency proves by a preponderance of the evidence that the owner or other person in charge of the vehicle is a consenting party or is privy to any crime involving theft, trafficking, or the unlawful possession of commercial metal property;

(b) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had actual or constructive knowledge of nor consented to the commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property; and

(c) A property owner's property is not subject to seizure if an employee or agent of that property owner uses the property owner's property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent.

(2) The following real property is subject to seizure and forfeiture and no property right exists in them: All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements, that the seizing agency proves by a preponderance of the evidence are being used with the knowledge of the owner for the intentional commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property, or which have been acquired in whole or in part with proceeds traceable to the commission of any crime involving the trafficking, theft, or unlawful possession of commercial metal, if such activity is not less than a class C felony and a substantial nexus exists between the commission of the violation or crime and the real property. However:

(a) No property may be forfeited pursuant to this subsection (2), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's actual or constructive knowledge; and further, a property owner's real property is not subject to seizure if an employee or agent of that property owner uses the property owner's real property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent; and

(b) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, neither had actual or constructive knowledge, nor consented to the act or omission.

(3) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by

the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.

(4) In the event of seizure pursuant to this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure of personal property may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking

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removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property.

(7) At the hearing, the seizing agency has the burden of proof to establish by a preponderance of the evidence that seized property is subject to forfeiture, and that the use or intended use of the seized property in connection with a crime pursuant to this section occurred with the owner's actual or constructive knowledge or consent. The person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property has the burden of proof to establish by a preponderance of the evidence that the person owns or has a right to possess the seized property. The possession of bare legal title is not sufficient to establish ownership of seized property if the seizing agency proves by a preponderance of the evidence that the person claiming ownership or right to possession is a nominal owner and did not actually own or exert a controlling interest in the property.

The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(8) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

(a) Retain it for official use or, upon application by any law enforcement agency of this state, release such property to such agency; or

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public.

(9)(a) Within one hundred twenty days after the entry of an order of forfeiture, each seizing agency shall remit to, if known, the victim of the crime involving the seized property, an amount equal to fifty percent of the net proceeds of any property forfeited.

(b) Retained property and net proceeds not required to be paid to victims shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(c) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages.

(d) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county

in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

NEW SECTION. Sec. 28. A new section is added to chapter 19.290 RCW to read as follows:

The provisions of this chapter shall be liberally construed to the end that traffic in stolen private metal property or nonferrous metal property may be prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of processing, recycling, or supplying scrap metal in this state and reliable persons may be encouraged to engage in businesses of processing, recycling, or supplying scrap metal in this state.

Sec. 29. RCW 18.235.020 and 2010 c 179 s 18 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

- (i) Auctioneers under chapter 18.11 RCW;
 - (ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;
 - (iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;
 - (iv) Commercial telephone solicitors under chapter 19.158 RCW;
 - (v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;
 - (vi) Court reporters under chapter 18.145 RCW;
 - (vii) Driver training schools and instructors under chapter 46.82 RCW;
 - (viii) Employment agencies under chapter 19.31 RCW;
 - (ix) For hire vehicle operators under chapter 46.72 RCW;
 - (x) Limousines under chapter 46.72A RCW;
 - (xi) Notaries public under chapter 42.44 RCW;
 - (xii) Private investigators under chapter 18.165 RCW;
 - (xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;
 - (xiv) Real estate appraisers under chapter 18.140 RCW;
 - (xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;
 - (xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;
 - (xvii) Security guards under chapter 18.170 RCW;
 - ~~((xvii))~~ (xviii) Sellers of travel under chapter 19.138 RCW;
 - ~~((xviii))~~ (xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;
 - ~~((xix))~~ (xx) Whitewater river outfitters under chapter 79A.60 RCW;
 - ~~((xx))~~ (xxi) Home inspectors under chapter 18.280 RCW;
 - ~~((xxi))~~ (xxii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and
 - ~~((xxii))~~ (xxiii) Appraisal management companies under chapter 18.310 RCW.
- (b) The boards and commissions having authority under this chapter are as follows:
- (i) The state board ~~((of registration))~~ for architects established in chapter 18.08 RCW;
 - (ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

Sec. 30. RCW 43.24.150 and 2011 c 298 s 25 are each amended to read as follows:

(1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

(a) Chapter 18.11 RCW, auctioneers;

(b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;

(c) Chapter 18.145 RCW, court reporters;

(d) Chapter 18.165 RCW, private investigators;

(e) Chapter 18.170 RCW, security guards;

(f) Chapter 18.185 RCW, bail bond agents;

(g) Chapter 18.280 RCW, home inspectors;

(h) Chapter 19.16 RCW, collection agencies;

(i) Chapter 19.31 RCW, employment agencies;

(j) Chapter 19.105 RCW, camping resorts;

(k) Chapter 19.138 RCW, sellers of travel;

(l) Chapter 42.44 RCW, notaries public;

(m) Chapter 64.36 RCW, timeshares;

(n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;

(o) Chapter 18.300 RCW, body art, body piercing, and tattooing;

(p) Chapter 79A.60 RCW, whitewater river outfitters; ~~(and)~~

(q) Chapter 19.158 RCW, commercial telephone solicitation; and

(r) Chapter 19.290 RCW, scrap metal businesses.

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in the account must be accumulated and may not revert to the general fund at the end of the biennium.

(2) The director must biennially prepare a budget request based on the anticipated costs of administering the business and professions licensing activities listed in subsection (1) of this section, which must include the estimated income from these business and professions fees.

NEW SECTION. Sec. 31. A new section is added to chapter 43.43 RCW to read as follows:

(1) Beginning on July 1, 2014, when funded, the Washington association of sheriffs and police chiefs shall implement and operate an ongoing electronic statewide no-buy list database program.

(2) The database must be made available on a web site.

(3) The no-buy list database program shall allow for any scrap metal business to enter a customer's name and date of birth into the database. The database must determine if the customer pursuing

the transaction with the scrap metal business has been convicted in Washington of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years.

(4) If the customer has been convicted of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years despite whether the person was acting in his or her own behalf or as the agent of another then, at a minimum, the no-buy list database program must immediately send an alert to the scrap metal business stating: (a) That the customer is listed on a current no-buy list, (b) the four-year expiration period for the customer's most recent crime listed, and (c) a notification that entering into a transaction with the customer is prohibited under RCW 19.290.070.

NEW SECTION. Sec. 32. A new section is added to chapter 19.290 RCW to read as follows:

A scrap metal business shall, before completing any transaction under this chapter, determine whether such customer is listed in the Washington association of sheriffs and police chiefs no-buy list database program established and made available under section 31 of this act.

NEW SECTION. Sec. 33. A new section is added to chapter 43.43 RCW to read as follows:

The Washington association of sheriffs and police chiefs shall not be held liable for civil damages resulting from any act or omission in carrying out the requirements of section 31 of this act other than an act or omission constituting gross negligence or willful or wanton misconduct.

NEW SECTION. Sec. 34. If specific funding for the purposes of sections 31 through 33 of this act, referencing sections 31 through 33 of this act by bill or chapter number and section number, is not provided by June 30, 2013, in the omnibus appropriations act, sections 31 through 33 of this act are null and void.

NEW SECTION. Sec. 35. Sections 12 through 21 and 23 of this act take effect January 1, 2014.

NEW SECTION. Sec. 36. The director of the department of licensing may take the necessary steps to ensure that sections 12 through 21 and 23 of this act are implemented on January 1, 2014."

On page 1, line 1 of the title, after "theft;" strike the remainder of the title and insert "amending RCW 9A.48.100, 9A.56.030, 9A.56.040, 19.290.010, 19.290.020, 19.290.030, 19.290.040, 19.290.050, 19.290.060, 19.290.070, 19.290.090, 18.235.020, and 43.24.150; reenacting and amending RCW 9.94A.515; adding new sections to chapter 19.290 RCW; adding a new section to chapter 36.28A RCW; adding new sections to chapter 43.43 RCW; creating new sections; prescribing penalties; and providing an effective date."

The President declared the question before the Senate to be the motion by Senator Padden to not adopt the committee striking amendment by the Committee on Law & Justice to Engrossed Substitute House Bill No. 1552.

The motion by Senator Padden carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Padden moved that the following striking amendment by Senators Padden and Kline be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.48.100 and 1984 c 273 s 4 are each amended to read as follows:

For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive:

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(1) "Physical damage", in addition to its ordinary meaning, shall include the total or partial alteration, damage, obliteration, or erasure of records, information, data, computer programs, or their computer representations, which are recorded for use in computers or the impairment, interruption, or interference with the use of such records, information, data, or computer programs, or the impairment, interruption, or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property as the consequence of an act and the cost to repair any physical damage;

(2) If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute mischief in the third degree because of value, then the value of the damages may be aggregated in one count. If the sum of the value of all the physical damages exceeds two hundred fifty dollars, the defendant may be charged with and convicted of malicious mischief in the second degree.

Sec. 2. RCW 9A.56.030 and 2012 c 233 s 2 are each amended to read as follows:

(1) A person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) five thousand dollars in value other than a firearm as defined in RCW 9.41.010;

(b) Property of any value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, taken from the person of another;

(c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty; or

(d) Commercial metal (wire, taken from a public service company, as defined in RCW 80.04.010, or a consumer owned utility, as defined in RCW 19.280.020,) property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the ((public service company's or consumer owned utility's)) owner's property exceed five thousand dollars in value.

(2) Theft in the first degree is a class B felony.

Sec. 3. RCW 9A.56.040 and 2012 c 233 s 3 are each amended to read as follows:

(1) A person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle;

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant;

(c) Commercial metal (wire, taken from a public service company, as defined in RCW 80.04.010, or a consumer owned utility, as defined in RCW 19.280.020,) property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the ((public service company's or consumer owned utility's)) owner's property exceed seven hundred fifty dollars but does not exceed five thousand dollars in value; or

(d) An access device.

(2) Theft in the second degree is a class C felony.

Sec. 4. RCW 19.290.010 and 2008 c 233 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.

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

(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.

(10) "Scrap metal ((recycling center)) recycler" 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.

(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)) recycler or scrap metal processor and that does not maintain a fixed business location in the state.

(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.

(13) "Engage in business" means conducting more than twelve transactions in a twelve-month period.

(14) "Person" means an individual, domestic or foreign corporation, limited liability corporation, partnership, trust, unincorporated association, or other entity; an affiliate or associate of any such person; or any two or more persons acting as a partnership, syndicate, or other group for the purpose of acquiring, holding, or dispersing of securities of a domestic or foreign corporation.

Sec. 5. RCW 19.290.020 and 2008 c 233 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))~~ utilizing the institute of scrap recycling industries' ((scrap specifications circular, 2006)) generally accepted terminology, and including 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))~~ five years following the date of the transaction.

Sec. 6. RCW 19.290.030 and 2008 c 233 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)~~(a)~~ 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 street address under the requirements of RCW 19.290.020 except as described in (b) of this subsection. ~~((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))~~ three days after the transaction was made. A transaction occurs on the date provided in the record required under RCW 19.290.020.

(b) A scrap metal business that is in compliance with this chapter that digitally captures: (i) A copy of one piece of current government-issued picture identification, including a current driver's license or identification card issued by any state and (ii) either a picture or video of either the material subject to the transaction in the form received or the material subject to the transaction within the vehicle which the material was transported to the scrap metal business, may pay up to a maximum of thirty dollars in cash, stored value device, or electronic funds transfer. The balance of the value of the transaction may be made by nontransferable check, stored value device, or electronic funds transfer at the time the transaction is made. A scrap metal business's usage of video surveillance shall be sufficient to comply with this subsection (4)(b)(i) as long as the video captures the material subject to the transaction. A digital image or picture taken under this subsection must be available for two years from the date of transaction, while a video recording must be available for thirty days.

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

Sec. 7. RCW 19.290.040 and 2008 c 233 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 record must be maintained for three years following the date of the transfer or receipt. 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.

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Sec. 8. RCW 19.290.050 and 2008 c 233 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 only a ((specific)) specified 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) Any records created or produced under this section are exempt from disclosure under chapter 42.56 RCW.

(3) 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.

(4) Compliance with this section shall not give rise to or form the basis of private civil liability on the part of a scrap metal business or scrap metal recycler.

Sec. 9. RCW 19.290.060 and 2008 c 233 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. 10. RCW 19.290.070 and 2008 c 233 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))~~ four 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); or

(9) Any person to knowingly make a false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, with the intent to deceive a scrap metal business as to the actual seller of the scrap metal.

Sec. 11. RCW 19.290.090 and 2008 c 233 s 8 are each amended to read as follows:

The provisions of this chapter do not apply to transactions involving metal from the components of vehicles acquired by vehicle wreckers, hulk haulers, or scrap processors licensed under chapter 46.79 or 46.80 RCW, and acquired in accordance with those laws or transactions conducted by the following:

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

(2) ~~((Metal from the components of 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

~~((4))~~ (3) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

NEW SECTION. **Sec. 12.** A new section is added to chapter 19.290 RCW to read as follows:

(1) It is unlawful for a person to engage in the business of a scrap metal processor, scrap metal recycler, or scrap metal supplier without having first applied for and received a scrap metal license.

(2)(a) Except as provided in (b) of this subsection, a person or firm engaged in the unlawful activity described in this section is guilty of a gross misdemeanor.

(b) A second or subsequent offense is a class C felony.

NEW SECTION. Sec. 13. A new section is added to chapter 19.290 RCW to read as follows:

Application for a scrap metal license or renewal of a scrap metal license shall be made on a form for this purpose, furnished by the department of licensing, and shall be signed by the license holder or his or her authorized agent and shall include the following information:

- (1) Name and address of the person, firm, partnership, association, limited liability company, or corporation under which name the business is to be conducted;
- (2) Names and residence address of all persons having an interest in the business or, if the owner is a corporation, the names and addresses of the officers thereof;
- (3) Certificate of approval of the chief executive officer or chief of police, or a designee, if the application is for a license within an incorporated city or town or, in any unincorporated area, the county legislative authority, the sheriff, or a designee, certifying that:
 - (a) The applicant has an established place of business at the address shown on the application;
 - (b) There are no known environmental, building code, zoning, or other land use regulation violations associated with the business being located at the address; and
 - (c) In the case of a renewal of a scrap metal license, the applicant is in compliance with this chapter: PROVIDED, That an authorized representative of the department of licensing may make the certification described in this section in any instance;
 - (4) Any other information that the department of licensing may require.

NEW SECTION. Sec. 14. A new section is added to chapter 19.290 RCW to read as follows:

The application, together with the required fee, shall be forwarded to the department of licensing. Upon receipt of the application the department shall, if the application is in order, issue a scrap metal license authorizing the processor, recycler, or supplier to do business as such and forward the fee to the state treasurer. Upon receiving the certificate, the owner shall cause it to be prominently displayed in the place of business, where it may be inspected by an investigating officer at any time. Every license must be issued in the name of the applicant and the holder thereof may not allow any other person to use the license.

NEW SECTION. Sec. 15. A new section is added to chapter 19.290 RCW to read as follows:

Before issuing a scrap metal license to a scrap metal processor or scrap metal recycler, the department of licensing shall require the applicant to file with the department a surety bond in the amount of ten thousand dollars, running to the state of Washington, and executed by a surety company authorized to do business in the state of Washington. The bond shall be approved as to form by the attorney general and conditioned upon the licensee conducting the business in conformity with the provisions of this chapter. Except as prohibited elsewhere in this chapter, any person who has suffered loss or damage by reason of fraud or gross negligence, or an intentional or reckless violation of the terms of this chapter, or misrepresentation on the part of the scrap metal processor or recycler, may institute an action for recovery against the licensee and surety upon the bond. However, the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond.

NEW SECTION. Sec. 16. A new section is added to chapter 19.290 RCW to read as follows:

A license issued on the scrap metal license application remains in force until suspended or revoked and may be renewed annually upon reapplication and upon payment of the required fee. A licensee who fails or neglects to renew the license before the assigned expiration date shall pay the fee for an original scrap metal license as provided in this chapter.

Whenever a scrap metal processor, recycler, or supplier ceases to do business as such or the license has been suspended or revoked, the licensee shall immediately surrender the license to the department of licensing.

NEW SECTION. Sec. 17. A new section is added to chapter 19.290 RCW to read as follows:

The licensee shall obtain a special set of license plates in addition to the regular licenses and plates required for the operation of such vehicles. The special plates must be displayed on vehicles owned and/or operated by the licensee and used in the conduct of the business. The fee for these plates shall be five dollars for the original plates and two dollars for each additional set of plates bearing the same license number. A licensee with more than one licensed location in the state may use special plates bearing the same license number for vehicles operated out of any of the licensed locations.

NEW SECTION. Sec. 18. A new section is added to chapter 19.290 RCW to read as follows:

The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 19. A new section is added to chapter 19.290 RCW to read as follows:

If a person whose scrap metal license has previously been canceled for cause by the department of licensing files an application for a license to conduct business as a scrap metal processor, recycler, or supplier, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department may refuse to issue the person a license to conduct business as a scrap metal processor, recycler, or supplier.

NEW SECTION. Sec. 20. A new section is added to chapter 19.290 RCW to read as follows:

(1) The director of licensing is hereby authorized to adopt reasonable rules and regulations not in conflict with provisions hereof for the proper operation and enforcement of this chapter.

(2) The director shall set all license and renewal fees in accordance with RCW 43.24.086.

NEW SECTION. Sec. 21. A new section is added to chapter 19.290 RCW to read as follows:

The chiefs of police, the county sheriffs, and the Washington state patrol may make periodic inspection of the licensee's licensed premises and records provided for in this chapter during normal business hours, and furnish a certificate of inspection to the department of licensing in such manner as may be determined by the department. In any instance, an authorized representative of the department may make the inspection. Licensees are subject to unannounced periodic inspections, as described in this section.

NEW SECTION. Sec. 22. A new section is added to chapter 19.290 RCW to read as follows:

The state of Washington hereby fully occupies and preempts the entire field of regulation of scrap metal processors, recyclers, or suppliers within the boundaries of the state. Any political subdivision in this state may enact or enforce only those laws and ordinances relating to the regulation of scrap metal processors, recyclers, or suppliers that are specifically authorized by state law and are consistent with this chapter. Nothing in this chapter is intended to limit the authority of any political subdivision to impose generally applicable zoning, land use, permitting, general business licensing, environmental, and health and safety requirements or authorized business taxes upon scrap metal processors, recyclers, or suppliers within their jurisdictions. Local ordinances pertaining specifically to scrap metal processors, recyclers, or suppliers shall have the same or lesser penalty as provided for by state law. Local scrap metal laws and ordinances that are inconsistent with, more

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restrictive than, or exceed the requirements of state law shall not be enacted and are hereby preempted and repealed, regardless of the code, charter, or home rule status of such political subdivision.

NEW SECTION. Sec. 23. A new section is added to chapter 19.290 RCW to read as follows:

(1) In addition to the powers granted in chapter 18.235 RCW, the department of licensing or its authorized agent may examine or subpoena any persons, books, papers, records, data, vehicles, or metal property bearing upon the investigation or proceeding under this chapter.

(2) The persons subpoenaed may be required to testify and produce any books, papers, records, data, vehicles, or metal property that the director of licensing deems relevant or material to the inquiry.

(3) The director of the department of licensing or an authorized agent may administer an oath to the person required to testify, and a person giving false testimony after the administration of the oath is guilty of perjury in the first degree under RCW 9A.72.020.

(4)(a) Any authorized representative of the director of the department of licensing may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

- (i) State that an order is sought pursuant to this subsection;
- (ii) Adequately specify the records, documents, or testimony; and

(iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(c) Any authorized representative of the director of the department of licensing may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(5) Any records created or produced under this section are exempt from disclosure under chapter 42.56 RCW.

NEW SECTION. Sec. 24. A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall establish a grant program to assist local law enforcement agencies in the support of special enforcement emphasis targeting metal theft. Grant applications shall be reviewed and awarded through peer review panels. Grant applicants are encouraged to utilize multijurisdictional efforts.

(2) Each grant applicant shall:

- (a) Show a significant metal theft problem in the jurisdiction or jurisdictions receiving the grant;
- (b) Verify that grant awards are sufficient to cover increased investigation, prosecution, and jail costs;
- (c) Design an enforcement program that best suits the specific metal theft problem in the jurisdiction or jurisdictions receiving the grant;
- (d) Demonstrate community coordination focusing on prevention, intervention, and suppression; and
- (e) Collect data on performance.

(3) The cost of administering the grants shall not exceed sixty thousand dollars, or three percent of appropriated funding, whichever is greater.

(4) Grant awards may not be used to supplant preexisting funding sources for special enforcement targeting metal theft.

NEW SECTION. Sec. 25. A new section is added to chapter 19.290 RCW to read as follows:

(1) Law enforcement agencies may register with the scrap theft alert system that is maintained and provided at no charge to users by the institute of scrap recycling industries, incorporated, or its successor organization, to receive alerts regarding thefts of private, nonferrous, or commercial metal property in the relevant geographic area.

(2) Any business licensed under this chapter shall:

(a) Sign up with the scrap theft alert system that is maintained and provided at no charge to users by the institute of scrap recycling industries, incorporated, or its successor organization, to receive alerts regarding thefts of private, nonferrous, or commercial metal property in the relevant geographic area;

(b) Download the scrap metal theft alerts generated by the scrap theft alert system on a daily basis;

(c) Use the alerts to identify potentially stolen commercial metal property, nonferrous metal property, and private metal property; and

(d) Maintain for ninety days copies of any theft alerts received and downloaded pursuant to this section.

Sec. 26. RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are each reenacted and amended to read as follows:

TABLE 2

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)

	Rape of a Child 2 (RCW 9A.44.076)		Drive-by Shooting (RCW 9A.36.045)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)		Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
X	Child Molestation 1 (RCW 9A.44.083)		Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
	Criminal Mistreatment 1 (RCW 9A.42.020)		Introducing Contraband 1 (RCW 9A.76.140)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))		Malicious placement of an explosive 3 (RCW 70.74.270(3))
	Kidnapping 1 (RCW 9A.40.020)		Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
	Leading Organized Crime (RCW 9A.82.060(1)(a))		Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
	Malicious explosion 3 (RCW 70.74.280(3))		Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
	Sexually Violent Predator Escape (RCW 9A.76.115)		Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)		Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
	Assault of a Child 2 (RCW 9A.36.130)	VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
	Explosive devices prohibited (RCW 70.74.180)		Bribery (RCW 9A.68.010)
	Hit and Run--Death (RCW 46.52.020(4)(a))		Incest 1 (RCW 9A.64.020(1))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)		Intimidating a Judge (RCW 9A.72.160)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))		Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
	Malicious placement of an explosive 2 (RCW 70.74.270(2))		Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
	Robbery 1 (RCW 9A.56.200)		Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
	Sexual Exploitation (RCW 9.68A.040)		Rape of a Child 3 (RCW 9A.44.079)
VIII	Arson 1 (RCW 9A.48.020)		Theft of a Firearm (RCW 9A.56.300)
	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)		Unlawful Storage of Ammonia (RCW 69.55.020)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)	V	Abandonment of Dependent Person 2 (RCW 9A.42.070)
	Manslaughter 2 (RCW 9A.32.070)		Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
	Promoting Prostitution 1 (RCW 9A.88.070)		Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
	Theft of Ammonia (RCW 69.55.010)		Child Molestation 3 (RCW 9A.44.089)
	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)		Criminal Mistreatment 2 (RCW 9A.42.030)
VII	Burglary 1 (RCW 9A.52.020)		Custodial Sexual Misconduct 1 (RCW 9A.44.160)
	Child Molestation 2 (RCW 9A.44.086)		Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
	Civil Disorder Training (RCW 9A.48.120)		Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220,
	Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))		

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- 26.26.138, 26.50.110, 26.52.070,
or 74.34.145)
- Driving While Under the Influence
(RCW 46.61.502(6))
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW
9A.82.020)
- Extortionate Means to Collect
Extensions of Credit (RCW
9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW
9.94.070)
- Physical Control of a Vehicle While
Under the Influence (RCW
46.61.504(6))
- Possession of a Stolen Firearm (RCW
9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1
(RCW 9A.76.070)
- Sending, Bringing into State Depictions
of Minor Engaged in Sexually
Explicit Conduct 2 (RCW
9.68A.060(2))
- Sexual Misconduct with a Minor 1
(RCW 9A.44.093)
- Sexually Violating Human Remains
(RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without
Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a
Projectile Stun Gun) (RCW
9A.36.031(1)(h))
- Assault by Watercraft (RCW
79A.60.060)
- Bribing a Witness/Bribe Received by
Witness (RCW 9A.72.090,
9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled
Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run--Injury (RCW
46.52.020(4)(b))
- Hit and Run with Vessel--Injury
Accident (RCW 79A.60.200(3))

- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under
Age Fourteen (subsequent sex
offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event
(RCW 9A.82.070)
- Malicious Harassment (RCW
9A.36.080)
- Possession of Depictions of a Minor
Engaged in Sexually Explicit
Conduct 2 (RCW 9.68A.070(2))
- Residential Burglary (RCW
9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW
9A.82.050)
- Unlawful factoring of a credit card or
payment card transaction (RCW
9A.56.290(4)(b))
- Unlawful transaction of health
coverage as a health care service
contractor (RCW 48.44.016(3))
- Unlawful transaction of health
coverage as a health maintenance
organization (RCW 48.46.033(3))
- Unlawful transaction of insurance
business (RCW 48.15.023(3))
- Unlicensed practice as an insurance
professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal
Profiteering (RCW 9A.82.080 (1)
and (2))
- Vehicular Assault, by being under the
influence of intoxicating liquor or
any drug, or by the operation or
driving of a vehicle in a reckless
manner (RCW 46.61.522)
- Viewing of Depictions of a Minor
Engaged in Sexually Explicit
Conduct 1 (RCW 9.68A.075(1))
- Willful Failure to Return from
Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or
Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace
Officer With a Projectile Stun
Gun) (RCW 9A.36.031 except
subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony
(RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for
Immoral Purposes (RCW
9.68A.090)
- Criminal Gang Intimidation (RCW
9A.46.120)

Custodial Assault (RCW 9A.36.100)	for the safety of others (RCW 46.61.522)
Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))	Willful Failure to Return from Work Release (RCW 72.65.070)
Escape 2 (RCW 9A.76.120)	II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
Extortion 2 (RCW 9A.56.130)	Computer Trespass 1 (RCW 9A.52.110)
Harassment (RCW 9A.46.020)	Counterfeiting (RCW 9.16.035(3))
Intimidating a Public Servant (RCW 9A.76.180)	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
Introducing Contraband 2 (RCW 9A.76.150)	Escape from Community Custody (RCW 72.09.310)
Malicious Injury to Railroad Property (RCW 81.60.070)	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.132)
Mortgage Fraud (RCW 19.144.080)	Health Care False Claims (RCW 48.80.030)
Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)	Identity Theft 2 (RCW 9.35.020(3))
Organized Retail Theft 1 (RCW 9A.56.350(2))	Improperly Obtaining Financial Information (RCW 9.35.010)
Perjury 2 (RCW 9A.72.030)	Malicious Mischief 1 (RCW 9A.48.070)
Possession of Incendiary Device (RCW 9.40.120)	Organized Retail Theft 2 (RCW 9A.56.350(3))
Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)	Possession of Stolen Property 1 (RCW 9A.56.150)
Promoting Prostitution 2 (RCW 9A.88.080)	Possession of a Stolen Vehicle (RCW 9A.56.068)
Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))	Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
Securities Act violation (RCW 21.20.400)	<u>Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (section 12 of this act)</u>
Tampering with a Witness (RCW 9A.72.120)	Theft 1 (RCW 9A.56.030)
Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))	Theft of a Motor Vehicle (RCW 9A.56.065)
Theft of Livestock 2 (RCW 9A.56.083)	Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
Theft with the Intent to Resell 1 (RCW 9A.56.340(2))	Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
Trafficking in Stolen Property 2 (RCW 9A.82.055)	Trafficking in Insurance Claims (RCW 48.30A.015)
Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
Unlawful Imprisonment (RCW 9A.40.040)	Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
Unlawful possession of firearm in the second degree (RCW 9.41.040(2))	Unlawful Practice of Law (RCW 2.48.180)
Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))	Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))	Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))	Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
Vehicular Assault, by the operation or driving of a vehicle with disregard	

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Voyeurism (RCW 9A.44.115)

Violating Commercial Fishing Area or

Time 1 (RCW 77.15.550(3)(b))

I Attempting to Elude a Pursuing Police
Vehicle (RCW 46.61.024)False Verification for Welfare (RCW
74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a
Mental Health Advance Directive
(RCW 9A.60.060)Malicious Mischief 2 (RCW
9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW
9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Spotlighting Big Game 1 (RCW
77.15.450(3)(b))Suspension of Department Privileges 1
(RCW 77.15.670(3)(b))Taking Motor Vehicle Without
Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-purchased
Property (valued at two
hundred fifty dollars or more but
less than one thousand five
hundred dollars) (RCW
9A.56.096(5)(b))Transaction of insurance business
beyond the scope of licensure
(RCW 48.17.063)Unlawful Fish and Shellfish Catch
Accounting (RCW
77.15.630(3)(b))Unlawful Issuance of Checks or Drafts
(RCW 9A.56.060)Unlawful Possession of Fictitious
Identification (RCW 9A.56.320)Unlawful Possession of Instruments of
Financial Fraud (RCW 9A.56.320)Unlawful Possession of Payment
Instruments (RCW 9A.56.320)Unlawful Possession of a Personal
Identification Device (RCW
9A.56.320)Unlawful Production of Payment
Instruments (RCW 9A.56.320)Unlawful Release of Deleterious Exotic
Wildlife (RCW 77.15.250(2)(b))Unlawful Trafficking in Food Stamps
(RCW 9.91.142)Unlawful Use of Food Stamps (RCW
9.91.144)Unlawful Use of Net to Take Fish 1
(RCW 77.15.580(3)(b))Unlawful Use of Prohibited Aquatic
Animal Species (RCW
77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

NEW SECTION. **Sec. 27.** A new section is added to chapter
19.290 RCW to read as follows:

(1) The following personal property is subject to seizure and forfeiture and no property right exists in them: All personal property including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which the seizing agency proves by a preponderance of the evidence was used or intended to be used by its owner or the person in charge to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, or which the seizing agency proves by a preponderance of the evidence was knowingly or intentionally furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, a crime involving theft, trafficking, or the unlawful possession of commercial metal property, or which the property owner acquired in whole or in part with proceeds traceable to a knowing or intentional commission of a crime involving the theft, trafficking, or unlawful possession of commercial metal property provided that such activity is not less than a class C felony; except that:

(a) No vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the seizing agency proves by a preponderance of the evidence that the owner or other person in charge of the vehicle is a consenting party or is privy to any crime involving theft, trafficking, or the unlawful possession of commercial metal property;

(b) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had actual or constructive knowledge of nor consented to the commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property; and

(c) A property owner's property is not subject to seizure if an employee or agent of that property owner uses the property owner's property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent.

(2) The following real property is subject to seizure and forfeiture and no property right exists in them: All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements, that the seizing agency proves by a preponderance of the evidence are being used with the knowledge of the owner for the intentional commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property, or which have been acquired in whole or in part with proceeds traceable to the commission of any crime involving the trafficking, theft, or unlawful possession of commercial metal, if such activity is not less than a class C felony and a substantial nexus exists between the commission of the violation or crime and the real property. However:

(a) No property may be forfeited pursuant to this subsection (2), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's actual or constructive knowledge; and further, a property owner's real property is not subject to seizure if an employee or agent of that property owner uses the property owner's real property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving

theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent; and

(b) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, neither had actual or constructive knowledge, nor consented to the act or omission.

(3) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.

(4) In the event of seizure pursuant to this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure of personal property may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the

seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property.

(7) At the hearing, the seizing agency has the burden of proof to establish by a preponderance of the evidence that seized property is subject to forfeiture, and that the use or intended use of the seized property in connection with a crime pursuant to this section occurred with the owner's actual or constructive knowledge or consent. The person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property has the burden of proof to establish by a preponderance of the evidence that the person owns or has a right to possess the seized property. The possession of bare legal title is not sufficient to establish ownership of seized property if the seizing agency proves by a preponderance of the evidence that the person claiming ownership or right to possession is a nominal owner and did not actually own or exert a controlling interest in the property.

The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(8) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

(a) Retain it for official use or, upon application by any law enforcement agency of this state, release such property to such agency; or

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public.

(9)(a) Within one hundred twenty days after the entry of an order of forfeiture, each seizing agency shall remit to, if known, the victim of the crime involving the seized property, an amount equal to fifty percent of the net proceeds of any property forfeited.

(b) Retained property and net proceeds not required to be paid to victims shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(c) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages.

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(d) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

NEW SECTION. Sec. 28. A new section is added to chapter 19.290 RCW to read as follows:

The provisions of this chapter shall be liberally construed to the end that traffic in stolen private metal property or nonferrous metal property may be prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of processing, recycling, or supplying scrap metal in this state and reliable persons may be encouraged to engage in businesses of processing, recycling, or supplying scrap metal in this state.

Sec. 29. RCW 18.235.020 and 2010 c 179 s 18 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

- (i) Auctioneers under chapter 18.11 RCW;
- (ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;
- (iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;
- (iv) Commercial telephone solicitors under chapter 19.158 RCW;
- (v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;
- (vi) Court reporters under chapter 18.145 RCW;
- (vii) Driver training schools and instructors under chapter 46.82 RCW;
- (viii) Employment agencies under chapter 19.31 RCW;
- (ix) For hire vehicle operators under chapter 46.72 RCW;
- (x) Limousines under chapter 46.72A RCW;
- (xi) Notaries public under chapter 42.44 RCW;
- (xii) Private investigators under chapter 18.165 RCW;
- (xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;
- (xiv) Real estate appraisers under chapter 18.140 RCW;
- (xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;
- (xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;
- ~~((xvii))~~ (xvii) Security guards under chapter 18.170 RCW;
- ~~((xviii))~~ (xviii) Sellers of travel under chapter 19.138 RCW;
- ~~((xviii))~~ (xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;
- ~~((xix))~~ (xx) Whitewater river outfitters under chapter 79A.60 RCW;
- ~~((xx))~~ (xxi) Home inspectors under chapter 18.280 RCW;

~~((xxi))~~ (xxii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

~~((xxiii))~~ (xxiii) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board ~~((of registration))~~ for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

Sec. 30. RCW 43.24.150 and 2011 c 298 s 25 are each amended to read as follows:

(1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

- (a) Chapter 18.11 RCW, auctioneers;
- (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- (c) Chapter 18.145 RCW, court reporters;
- (d) Chapter 18.165 RCW, private investigators;
- (e) Chapter 18.170 RCW, security guards;
- (f) Chapter 18.185 RCW, bail bond agents;
- (g) Chapter 18.280 RCW, home inspectors;
- (h) Chapter 19.16 RCW, collection agencies;
- (i) Chapter 19.31 RCW, employment agencies;
- (j) Chapter 19.105 RCW, camping resorts;
- (k) Chapter 19.138 RCW, sellers of travel;
- (l) Chapter 42.44 RCW, notaries public;
- (m) Chapter 64.36 RCW, timeshares;
- (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- (p) Chapter 79A.60 RCW, whitewater river outfitters; ~~((and))~~
- (q) Chapter 19.158 RCW, commercial telephone solicitation; and
- (r) Chapter 19.290 RCW, scrap metal businesses.

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in the account must be accumulated and may not revert to the general fund at the end of the biennium.

(2) The director must biennially prepare a budget request based on the anticipated costs of administering the business and

professions licensing activities listed in subsection (1) of this section, which must include the estimated income from these business and professions fees.

NEW SECTION. Sec. 31. A new section is added to chapter 43.43 RCW to read as follows:

(1) Beginning on July 1, 2014, when funded, the Washington association of sheriffs and police chiefs shall implement and operate an ongoing electronic statewide no-buy list database program.

(2) The database must be made available on a web site.

(3) The no-buy list database program shall allow for any scrap metal business to enter a customer's name and date of birth into the database. The database must determine if the customer pursuing the transaction with the scrap metal business has been convicted in Washington of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years.

(4) If the customer has been convicted of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years despite whether the person was acting in his or her own behalf or as the agent of another then, at a minimum, the no-buy list database program must immediately send an alert to the scrap metal business stating: (a) That the customer is listed on a current no-buy list, (b) the four-year expiration period for the customer's most recent crime listed, and (c) a notification that entering into a transaction with the customer is prohibited under RCW 19.290.070.

NEW SECTION. Sec. 32. A new section is added to chapter 19.290 RCW to read as follows:

A scrap metal business shall, before completing any transaction under this chapter, determine whether such customer is listed in the Washington association of sheriffs and police chiefs no-buy list database program established and made available under section 31 of this act.

NEW SECTION. Sec. 33. A new section is added to chapter 43.43 RCW to read as follows:

The Washington association of sheriffs and police chiefs shall not be held liable for civil damages resulting from any act or omission in carrying out the requirements of section 31 of this act other than an act or omission constituting gross negligence or willful or wanton misconduct.

NEW SECTION. Sec. 34. If one million five hundred thousand dollars for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2013, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 35. Sections 12 through 23 of this act take effect January 1, 2014.

NEW SECTION. Sec. 36. The director of the department of licensing may take the necessary steps to ensure that sections 12 through 23 of this act are implemented on January 1, 2014."

Senators Padden and Kline spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Padden and Kline to Engrossed Substitute House Bill No. 1552.

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

MOTION

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

On page 1, line 1 of the title, after "theft;" strike the remainder of the title and insert "amending RCW 9A.48.100, 9A.56.030, 9A.56.040, 19.290.010, 19.290.020, 19.290.030, 19.290.040, 19.290.050, 19.290.060, 19.290.070, 19.290.090, 18.235.020, and 43.24.150; reenacting and amending RCW 9.94A.515; adding new

sections to chapter 19.290 RCW; adding a new section to chapter 36.28A RCW; adding new sections to chapter 43.43 RCW; creating new sections; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Padden, the rules were suspended, Engrossed Substitute House Bill No. 1552 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 Padden, Eide and Becker 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. 1552 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1552 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Holmquist Newbry

Excused: Senators Carrell and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1552 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. 1330, by Representatives Moeller, Harris, Green, Cody, Tharinger, Pettigrew, Appleton, Springer, Roberts, Kagi, Pollet, Moscoso and Morrell

Allowing dental hygienists and dental assistants to provide certain services under the supervision of a dentist.

The measure was read the second time.

MOTION

On motion of Senator Dammeier, the rules were suspended, House Bill No. 1330 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dammeier and Cleveland 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. 1330.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1330 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Carrell and Shin

HOUSE BILL NO. 1330, 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. 1498, by House Committee on Environment (originally sponsored by Representatives Upthegrove, Short and Ryu)

Improving reports on electronic waste collection.

The measure was read the second time.

MOTION

On motion of Senator Ericksen, the rules were suspended, Substitute House Bill No. 1498 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ericksen and Ranker 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. 1498.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1498 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Carrell and Shin

SUBSTITUTE HOUSE BILL NO. 1498, 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 8:13 p.m., on motion of Senator Fain, the Senate adjourned until 9:00 a.m. Wednesday, April 17, 2013.

BRAD OWEN, President of the Senate

HUNTER GOODMAN, Secretary of the Senate

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	Third Reading Final Passage	41	Third Reading Final Passage	30
1034-S	President Signed	25	1270-S	Second Reading
	Speaker Signed	25		Third Reading Final Passage
1035	President Signed	25	1271-S	Second Reading
	Speaker Signed	25		Third Reading Final Passage
1036	Second Reading	44	1307-S	President Signed
	Third Reading Final Passage	45		Speaker Signed
1044	Other Action	25	1311	President Signed
1056	President Signed	25		Speaker Signed
	Speaker Signed	25	1325-S	President Signed
1109	President Signed	25		Speaker Signed
	Speaker Signed	25	1330	Second Reading
1112	President Signed	25		Third Reading Final Passage
	Speaker Signed	25	1343-S	President Signed
1113	President Signed	25		Speaker Signed
	Speaker Signed	25	1370-S	Second Reading
1134-S	Other Action	30		Third Reading Final Passage
1134-S2	Other Action	30, 31	1376-S	President Signed
	Second Reading	26, 31		Speaker Signed
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1144-S	Second Reading	40		Second Reading
	Third Reading Final Passage	40		Third Reading Final Passage
1146	President Signed	25	1396	President Signed
	Speaker Signed	25		Speaker Signed
1180-S	Second Reading	33	1397-S	Second Reading
	Third Reading Final Passage	33		Third Reading Final Passage
1182	President Signed	25	1422-S	Second Reading
	Speaker Signed	25		Third Reading Final Passage
1200-S	Other Action	11	1432-S	Second Reading
	Second Reading	5		Third Reading Final Passage
	Third Reading Final Passage	11	1445-S2	Other Action
1203	Other Action	32		Second Reading
	Second Reading	32		Third Reading Final Passage
	Third Reading Final Passage	32	1447	Second Reading
1209	President Signed	25		Third Reading Final Passage
	Speaker Signed	25	1466-S	Other Action
1213	President Signed	25		Second Reading
	Speaker Signed	25		Third Reading Final Passage
1247-S	Second Reading	40	1469	President Signed
	Third Reading Final Passage	40		Speaker Signed
1256-S	Second Reading	38	1472-S	Other Action
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1261-S				Third Reading Final Passage
			1480-S	Second Reading

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1525-S		Speaker Signed	25
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1533		1886-S	
President Signed	25	President Signed.....	25
Speaker Signed	25	Speaker Signed	25
1534		1889-S	
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1537-S		1937	
President Signed	25	President Signed.....	25
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1552-S		1941-S	
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1639		Speaker Signed	24
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1686-S		Speaker Signed	24
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Speaker Signed	25	Messages.....	1
1688-S		President Signed.....	26
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1717-S		Speaker Signed	24
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1764-S2		5165-S	
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5302		5770	
Speaker Signed.....	24	Messages	1
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