

SIXTY SIXTH LEGISLATURE - REGULAR SESSION

ONE HUNDRED FOURTH DAY

House Chamber, Olympia, Saturday, April 27, 2019

The House was called to order at 2:00 p.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Leo O'Leary and Kean Joling. (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Representative Bob McCaslin, 4th Legislative District, Washington.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

RESOLUTIONS

HOUSE RESOLUTION NO. 2019-4634, by Representative Vick

WHEREAS, It is the policy of the Washington State House of Representatives to recognize excellence in every field of endeavor; and

WHEREAS, The Washougal High School Panthers are the 2019 2A Girls' Basketball State Champions; and

WHEREAS, The Washougal High School Panthers won the state championship in a dramatic overtime win; and

WHEREAS, The Washougal High School Panthers defeated the East Valley High School Knights at the Yakima Valley SunDome on March 2, 2019, by a score of 49-40; and

WHEREAS, Beyonce Bea was named the Greater St. Helens League 2A MVP for the third time; and

WHEREAS, The Washougal High School Panthers won the State Championship after an impressive string of wins; and

WHEREAS, The Panthers defeated defending 2A state champion, W.F. West, by 49-39 on February 28, 2019; and

WHEREAS, Freshman Jaiden Bea led all scorers in her first ever state tournament game with 18 points against the W.F. West Bearcats; and

WHEREAS, The Panthers would face off against the Clarkston Bantams within a short period of twenty-four hours; and

WHEREAS, Skylar Bea surprised Clarkston with two long-range 3 point shots; and

WHEREAS, Beyonce Bea scored 21 points, had 15 rebounds, five assists, and five steals against the Bantams; and

WHEREAS, The Washougal Panthers defeated the Clarkston Bantams on March 1st; and

WHEREAS, The title game was low scoring and defensive; and

WHEREAS, The title game was a repeat of a matchup between Washougal and East Valley after they played one week earlier in a regional seeding game; and

WHEREAS, Washougal would win the regional seeding game in Spokane; and

WHEREAS, Senior Beyonce Bea, leader of the Washougal Panthers Girls' Basketball Team, is headed for Division I basketball at the University of Idaho;

NOW, THEREFORE, BE IT RESOLVED, That on this day the Washington State House of Representatives congratulate the Washougal High School basketball team on their state championship, and congratulate their fans, supportive alumni, and the entire community for this phenomenal achievement; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the Washougal High School Panthers basketball team and Head Coach Britney Knotts.

There being no objection, HOUSE RESOLUTION NO. 4634 was adopted.

HOUSE RESOLUTION NO. 2019-4635, by Representative Vick

WHEREAS, It is the policy of the Washington State House of Representatives to recognize excellence in every field of endeavor; and

WHEREAS, The Columbia River High School Chieftains are the 2018 2A Boys' Soccer State Champions; and

WHEREAS, The 2018 Columbia River High School Chieftains Soccer team held a perfect record of 23-0, without a tie, or forced extra time all season long; and

WHEREAS, The Columbia River High School Chieftains defeated the Burlington-Edison High School Tigers in the state championship at Sunset Chev Stadium in Sumner, Washington on May 26, 2018, by a score of 2-0; and

WHEREAS, The Columbia River Chieftains defeated the Clarkston Bantams by a score of 3-2 at the Kiggins Bowl in Vancouver, Washington on May 16, 2018, to advance to the quarter finals; and

WHEREAS, The Columbia River Chieftains defeated the Archbishop Murray Wildcats by a score of 3-1 at the Kiggins Bowl on May 19, 2018, to advance to the semifinals; and

WHEREAS, The Columbia River Chieftains defeated the Franklin Pierce Cardinals in a shutout by a score of 1-0 on May 25, 2018, at Sunset Chev Stadium in the semifinals; and

WHEREAS, In the finals, Chieftain Jack Kolosvary scored a goal in the 24th minute that deflected off a side wall and went into the goal uncontested; and

WHEREAS, Despite their weaker record, the Burlington-Edison Tigers fought hard against the Columbia River Chieftains; and

WHEREAS, Jack Kolosvary scored the Chieftain's second goal three minutes into the second half off a penalty kick; and

WHEREAS, Midfielder Ryan Connop and Defender Candler Bolte were both named to the Class 2A first team for their remarkable achievements; and

WHEREAS, Forward Jake Connop, Midfielder Jack Kolosvary, and Goalkeeper David Gonzalez were all named to the Class 2A second team for their remarkable achievements; and

WHEREAS, Head Coach Filomon Afenegus was named 2A Coach of the Year for his tremendous leadership;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives congratulate the Columbia River High School soccer team on their state championship, and congratulate their fans, supportive alumni, and the entire community for this amazing accomplishment; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the Columbia River High School Chieftains soccer team and to Head Coach Filomon Afenegus.

There being no objection, HOUSE RESOLUTION NO. 4635 was adopted.

HOUSE RESOLUTION NO. 2019-4637, by Representative Corry

WHEREAS, Members of our Armed Services past and present have protected our national security and advanced our national interests to preserve our rights and freedoms; and

WHEREAS, Washington state has maintained a tradition of remembering and paying tribute to individual patriots whose courage and sacrifice to secure and defend our freedom go above and beyond normal standards of excellence in service; and

WHEREAS, Charles "Chuck" Walter Austin was born in Yakima, Washington, on January 17, 1926; and

WHEREAS, He voluntarily joined the United States Marine Corps in the spring of 1943; and

WHEREAS, After completing his initial tour of service, Charles "Chuck" Walter Austin was discharged; and

WHEREAS, Charles "Chuck" Walter Austin later rejoined the Marines when the hostilities in Korea began; and

WHEREAS, Charles "Chuck" Walter Austin valiantly served in World War II, the Korean War, and in Vietnam; and

WHEREAS, Charles "Chuck" Walter Austin received several military commendations including six Good Conduct Medals, the World War II Victory Medal, the Armed Forces Expeditionary Medal, the China Service Medal, the United Nations Service Medal, the Korean

Service Medal, the Asiatic Pacific Campaign Medal, the National Defense Service Medal, the Republic of Vietnam Campaign Medal, the Vietnam Service Medal, a Rifle Marksman Badge M-1, a Pistol Marksman Badge .45, a Presidential Unit Citation, and the Republic of Korea Presidential Unit Citation; and

WHEREAS, After many years of service, Charles "Chuck" Walter Austin retired in 1965 having reached the rank of Staff Sergeant; and

WHEREAS, The selfless sacrifice of Charles "Chuck" Walter Austin; his deceased wife Alice Austin; and his grown children Diana Wharton, Paul Fletterink, and Russell Fletterink deserve our utmost respect and honor;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor Charles "Chuck" Walter Austin for his years of military service through three wars, for his personal and professional integrity, and for his fearless defense of our nation; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Charles "Chuck" Walter Austin.

There being no objection, HOUSE RESOLUTION NO. 4637 was adopted.

HOUSE RESOLUTION NO. 2019-4638, by Representative Dolan

WHEREAS, Excellence in education is vital to the success of our state and nation; and in the great state of Washington we seek the betterment of our population and look to provide each child and adolescent with a good education; and

WHEREAS, Education develops the intellect through lessons in literacy, math, and science, thereby preparing students for the responsibilities and opportunities of the future; and

WHEREAS, The character of our young people is strengthened by lessons in courage and compassion and serving a cause greater than one's self. By encouraging a spirit of service in our children, we create a more optimistic future for them and our state; and

WHEREAS, One shining example for all people of what education ought to be was provided by the Rebbe, Rabbi Menachem Schneerson, a global spiritual leader who dedicated his life to the betterment of mankind. A tireless advocate for youth around the world, the Rebbe emphasized the importance of education and good character and instilled the hope for a brighter future into the lives of countless people in the United States and across the globe; and

WHEREAS, As taught by Rabbi Schneerson, education should not be limited to the acquisition of knowledge and preparation for a career but for the betterment of society as a whole. The educational system must pay more attention to the building of character, emphasizing moral and ethical values, which are part of society's foundation; and

WHEREAS, In recognition of the Rebbe's outstanding and lasting contributions toward improvements in education, ethics, morality, and acts of charity, he has been awarded the Congressional Gold Medal and the United States Congress

has established his birth date as a national day to raise awareness and improve the education of our children; and

WHEREAS, The President of the United States has historically paid recognition to the Rebbe's vision each year on that day by proclaiming it *Education & Sharing Day USA*; and

WHEREAS, The President has proclaimed Tuesday, April 16, 2019, to be: EDUCATION AND SHARING DAY;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives recognize this day and call upon government officials, educators, volunteers, and all Washingtonians to reach out to young people and work to create a better, brighter, and more hopeful future for all.

There being no objection, HOUSE RESOLUTION NO. 4638 was adopted.

HOUSE RESOLUTION NO. 2019-4640, by Representative Thai

WHEREAS, Approximately 640,000 people in Washington (10.9 percent of the adult population) are diagnosed with diabetes and Washingtonians of Asian heritage comprised 7.8 percent of the population; and

WHEREAS, Diabetes is the fifth leading cause of death among Asian Americans. Asian Americans face a health care disparity in type 2 diabetes detection and diagnosis due to the current general guidelines that do not take into account lower body mass index which leads to 36 percent of misdiagnosed cases for Asian Americans over the age of 45; and

WHEREAS, Early detection and treatment can mitigate diabetes-related complications, risks, and costs. Interventions focusing on nutrition, physical activity, and healthy weight control have been shown to reverse prediabetes, improve glucose function in diabetics, and reduce the need for multiple medications; and

WHEREAS, Screening services for Asian and Pacific Islander Americans age 45 and older, at a BMI of 23kg/m2 will ensure early interventions that reduce negative comorbidities like heart diseases, kidney diseases, and limb amputation; and

WHEREAS, The World Health Organization recommends screening individuals identified as Asian at a lower body mass index in compared to other races, and the American Diabetes Association recommends that Asian Americans be tested for type 2 diabetes at a body mass index of 23; and

WHEREAS, The Asian American, Native Hawaiian, and Pacific Islander Diabetes Coalition has coordinated the "Screen at 23" campaign with the support of over forty national and regional health organizations;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives applaud the effort to educate and to promote evidence-based and scientific-based preventive screening and diabetic prevention by the Asian American, Native Hawaiian, and Pacific Islander Diabetes Coalition to further the Healthy People 2020 national initiative.

There being no objection, HOUSE RESOLUTION NO. 4640 was adopted.

The Speaker (Representative Lovick presiding) called upon Representative Sullivan to preside.

There being no objection, the House advanced to the eighth order of business.

MOTION

There being no objection, the Committee on Rules was relieved of SUBSTITUTE SENATE BILL NO. 5695 and the bill was placed on the second reading calendar:

The Speaker (Representative Sullivan presiding) called upon Representative Lovick to preside.

There being no objection, the House reverted to the third order of business.

MESSAGES FROM THE SENATE

April 26, 2019

MR. SPEAKER:

The Senate has adopted the report of the Conference Committee on SUBSTITUTE SENATE BILL NO. 5370, and has passed the bill as recommended by the Conference Committee.

Brad Hendrickson, Secretary

April 26, 2019

MR. SPEAKER:

The Senate concurred in the House amendment(s) to the following bills and passed the bills as amended by the House:

SECOND SUBSTITUTE SENATE BILL NO. 5846,
SUBSTITUTE SENATE BILL NO. 5861,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 26, 2019

MR. SPEAKER:

The President has signed:

HOUSE BILL NO. 1016,
SUBSTITUTE HOUSE BILL NO. 1083,
SUBSTITUTE HOUSE BILL NO. 1155,
ENGROSSED THIRD SUBSTITUTE HOUSE BILL
NO. 1324,
ENGROSSED SECOND SUBSTITUTE HOUSE
BILL NO. 1593,
SECOND SUBSTITUTE HOUSE BILL NO. 1767,
SECOND SUBSTITUTE HOUSE BILL NO. 1907,

ENGROSSED SECOND SUBSTITUTE HOUSE
BILL NO. 1923,
ENGROSSED HOUSE BILL NO. 2067,
HOUSE BILL NO. 2144,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 26, 2019

MR. SPEAKER:

The President has signed:

SECOND SUBSTITUTE SENATE BILL NO. 5082,
ENGROSSED SENATE BILL NO. 5274,
SUBSTITUTE SENATE BILL NO. 5652,
SECOND SUBSTITUTE SENATE BILL NO. 5672,
SUBSTITUTE SENATE BILL NO. 5714,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

There being no objection, the House advanced to the seventh order of business.

THIRD READING

CONFERENCE COMMITTEE REPORT

April 26, 2019

Engrossed Substitute Senate Bill No. 5526

Includes "New Item": YES

Mr. Speaker:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE SENATE BILL NO. 5526, Increasing the availability of quality, affordable health coverage in the individual market, have had the same under consideration and we recommend that:

All previous amendments not be adopted and that the attached striking amendment be adopted and that the bill do pass as recommended by the Conference Committee

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.71 RCW to read as follows:

(1) The exchange, in consultation with the commissioner, the authority, an independent actuary, and other stakeholders, must establish up to three standardized health plans for each of the bronze, silver, and gold levels.

(a) The standardized health plans must be designed to reduce deductibles, make more services available before the deductible, provide predictable cost sharing, maximize

subsidies, limit adverse premium impacts, reduce barriers to maintaining and improving health, and encourage choice based on value, while limiting increases in health plan premium rates.

(b) The exchange may update the standardized health plans annually.

(c) The exchange must provide a notice and public comment period before finalizing each year's standardized health plans.

(d) The exchange must provide written notice of the standardized health plans to licensed health carriers by January 31st before the year in which the health plans are to be offered on the exchange. The exchange may make modifications to the standardized plans after January 31st to comply with changes to state or federal law or regulations.

(2)(a) Beginning January 1, 2021, any health carrier offering a qualified health plan on the exchange must offer one silver standardized health plan and one gold standardized health plan on the exchange. If a health carrier offers a bronze health plan on the exchange, it must offer one bronze standardized health plan on the exchange.

(b)(i) A health plan offering a standardized health plan under this section may also offer nonstandardized health plans on the exchange.

(ii) The exchange, in consultation with the office of the insurance commissioner, shall analyze the impact to exchange consumers of offering only standard plans beginning in 2025 and submit a report to the appropriate committees of the legislature by December 1, 2023. The report must include an analysis of how plan choice and affordability will be impacted for exchange consumers across the state.

(iii) The actuarial value of nonstandardized silver health plans offered on the exchange may not be less than the actuarial value of the standardized silver health plan with the lowest actuarial value.

(c) A health carrier offering a standardized health plan on the exchange under this section must continue to meet all requirements for qualified health plan certification under RCW 43.71.065 including, but not limited to, requirements relating to rate review and network adequacy.

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

(1) Any data submitted by health carriers to the health benefit exchange for purposes of establishing standardized health plans under section 1 of this act are exempt from disclosure under this chapter. This subsection applies to health carrier data in the custody of the insurance commissioner for purposes of consulting with the health benefit exchange under section 1(1) of this act.

(2) Any data submitted by health carriers to the health care authority for purposes of section 3 of this act are exempt from disclosure under this chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 41.05 RCW to read as follows:

(1) The authority, in consultation with the health benefit exchange, must contract with one or more health carriers to offer qualified health plans on the Washington health benefit exchange for plan years beginning in 2021. A health carrier contracting with the authority under this section must offer at least one bronze, one silver, and one gold qualified health plan in a single county or in multiple counties. The goal of the procurement conducted under this section is to have a choice of qualified health plans under this section offered in every county in the state. The authority may not execute a contract with an apparently successful bidder under this section until after the insurance commissioner has given final approval of the health carrier's rates and forms pertaining to the health plan to be offered under this section and certification of the health plan under RCW 43.71.065.

(2) A qualified health plan offered under this section must meet the following criteria:

(a) The qualified health plan must be a standardized health plan established under section 1 of this act;

(b) The qualified health plan must meet all requirements for qualified health plan certification under RCW 43.71.065 including, but not limited to, requirements relating to rate review and network adequacy;

(c) The qualified health plan must incorporate recommendations of the Robert Bree collaborative and the health technology assessment program;

(d) The qualified health plan may use an integrated delivery system or a managed care model that includes care coordination or care management to enrollees as appropriate;

(e) The qualified health plan must meet additional participation requirements to reduce barriers to maintaining and improving health and align to state agency value-based purchasing. These requirements may include, but are not limited to, standards for population health management; high-value, proven care; health equity; primary care; care coordination and chronic disease management; wellness and prevention; prevention of wasteful and harmful care; and patient engagement;

(f) To reduce administrative burden and increase transparency, the qualified health plan's utilization review processes must:

(i) Be focused on care that has high variation, high cost, or low evidence of clinical effectiveness; and

(ii) Meet national accreditation standards;

(g)(i) The total amount the qualified health plan reimburses providers and facilities for all covered benefits in the statewide aggregate, excluding pharmacy benefits, may not exceed one hundred sixty percent of the total amount Medicare would have reimbursed providers and facilities for the same or similar services in the statewide aggregate;

(ii) Beginning in calendar year 2023, if the authority determines that selective contracting will result in actuarially sound premium rates that are no greater than the qualified health plan's previous plan year rates adjusted for inflation using the consumer price index, the director may, in

consultation with the health benefit exchange, waive (g)(i) of this subsection as a requirement of the contracting process under this section;

(h) For services provided by rural hospitals certified by the centers for Medicare and Medicaid services as critical access hospitals or sole community hospitals, the rates may not be less than one hundred one percent of allowable costs as defined by the United States centers for Medicare and Medicaid services for purposes of Medicare cost reporting;

(i) Reimbursement for primary care services, as defined by the authority, provided by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine, may not be less than one hundred thirty-five percent of the amount that would have been reimbursed under the Medicare program for the same or similar services; and

(j) The qualified health plan must comply with any requirements established by the authority to address amounts expended on pharmacy benefits including, but not limited to, increasing generic utilization and use of evidence-based formularies.

(3) Nothing in this section prohibits a health carrier offering qualified health plans under this section from offering other health plans in the individual market.

NEW SECTION. Sec. 4. A new section is added to chapter 41.05 RCW to read as follows:

The director may, in his or her sole discretion, waive the requirements of section 3(2)(g)(i) of this act if he or she finds that:

(1) A health carrier offering a qualified health plan under section 3 of this act is unable to form a provider network that meets the network access standards adopted by the insurance commissioner due to the requirements of section 3(2)(g)(i) of this act; and

(2) The health carrier is able to achieve actuarially sound premiums that are ten percent lower than the previous plan year through other means.

NEW SECTION. Sec. 5. (1) The health care authority, in consultation with the insurance commissioner and the Washington health benefit exchange, must submit a report and recommendations to the legislature by December 1, 2022, regarding:

(a) The impact on qualified health plan choice, affordability, and market stability of linking offering a qualified health plan under section 3 of this act with participation in programs administered by the public employees' benefits board, the school employees' benefits board, or the health care authority;

(b) The impact on qualified health plan choice, qualified health plan provider networks, affordability, and market stability of linking provider participation in the provider networks of qualified health plans offered under section 3 of this act with provider participation in provider networks of programs administered by the public employees' benefits board, the school employees' benefits board, or the health care authority;

(c) Whether the utilization review processes employed by a health carrier offering a qualified health plan under section 3 of this act should align with clinical criteria published by the health care authority; and

(d) Other issues the health care authority deems relevant to the successful implementation of this act.

(2) This section expires January 1, 2023.

NEW SECTION. Sec. 6. (1) The Washington health benefit exchange, in consultation with the health care authority and the insurance commissioner, must develop a plan to implement and fund premium subsidies for individuals whose modified adjusted gross incomes are less than five hundred percent of the federal poverty level and who are purchasing individual market coverage on the exchange. The goal of the plan is to enable participating individuals to spend no more than ten percent of their modified adjusted gross incomes on premiums. The plan must also include an assessment of providing cost-sharing reductions to plan participants and must assess the impact of premium subsidies on the uninsured rate.

(2) The Washington health benefit exchange must submit the plan, along with proposed implementing legislation, to the appropriate committees of the legislature by November 15, 2020.

(3) This section expires January 1, 2021.

NEW SECTION. Sec. 7. A new section is added to chapter 48.43 RCW to read as follows:

The commissioner shall submit an annual report to the appropriate committees of the legislature on the number of health plans available per county in the individual market.

NEW SECTION. Sec. 8. A new section is added to chapter 48.43 RCW to read as follows:

A carrier may not require a provider or facility participating in a qualified health plan under section 3 of this act to, as a condition of participation in a qualified health plan under section 3 of this act, accept a reimbursement rate for other health plans offered by the carrier at the same rate as the provider or facility is reimbursed for a qualified health plan under section 3 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to amounts received by a health care provider for services performed on patients covered by a qualified health plan offered under section 3 of this act, including reimbursement from the qualified health plan and any amounts collected from the patient as part of his or her cost-sharing obligation.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "market;" strike the remainder of the title and insert "adding a new section to chapter 43.71 RCW; adding a new section to chapter 42.56 RCW; adding new sections to chapter 41.05 RCW; adding

new sections to chapter 48.43 RCW; adding a new section to chapter 82.04 RCW; creating new sections; and providing expiration dates."

and that the bill do pass as recommended by the Conference Committee:

Senators Cleveland and Frockt
Representatives Cody and Macri

There being no objection, the House adopted the conference committee report on ENGROSSED SUBSTITUTE SENATE BILL NO. 5526 and advanced the bill as recommended by the conference committee to final passage.

FINAL PASSAGE OF HOUSE BILL AS RECOMMENDED BY CONFERENCE COMMITTEE

Representative Cody spoke in favor of the passage of the bill as recommended by the conference committee.

Representative Schmick spoke against the passage of the bill as recommended by the conference committee.

MOTION

On motion of Representative Riccelli, Representative Entenman was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute Senate Bill No. 5526, as recommended by the conference committee.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5526, as recommended by the conference committee, and the bill passed the House by the following votes: Yeas, 56; Nays, 41; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schwick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representative Entenman.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5526, as recommended by the conference committee, having received the constitutional majority, was declared passed.

CONFERENCE COMMITTEE REPORT

April 25, 2019

Substitute Senate Bill No. 5370

Includes "New Item": YES

Mr. Speaker:

We of your Conference Committee, to whom was referred SUBSTITUTE SENATE BILL NO. 5370, Creating a state commercial aviation coordinating commission, have had the same under consideration and we recommend that:

All previous amendments not be adopted and that the attached striking amendment be adopted

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 11. The legislature finds that with the increase in air traffic operations, combined with the projections for the rapid expansion of these operations in both the short and the long term, concerns regarding the environmental, health, social, and economic impacts of air traffic are increasing as well. The legislature also finds that advancing Washington's position as a national and international trading leader is dependent upon the development of a highly competitive, statewide passenger and cargo air transportation system. Therefore, the legislature seeks to identify a location for a new primary commercial aviation facility in Washington, taking into consideration the data and conclusions of appropriate air traffic studies, community representatives, and industry experts. Options for a new primary commercial aviation facility in Washington may include expansion of an existing airport facility. It is the intent of the legislature to establish a state commercial aviation coordinating commission to provide a location recommendation by January 1, 2022. The legislature also recognizes any preferred location will require substantial environmental, land use, governance, and funding decisions from state and local governments.

NEW SECTION. Sec. 12. (1) The state commercial aviation coordinating commission is created to carry out the functions of this chapter. The commission shall consist of fifteen voting members.

(2) The governor shall appoint thirteen voting members to represent the following interests:

(a) Four as representatives of commercial service airports and ports, one of whom shall represent a port located in a county with a population of two million or more, one of whom shall represent a port in eastern Washington with an airport runway of at least thirteen thousand five hundred feet in length, one of whom shall represent a commercial service airport in eastern Washington located in a county with a population of four hundred thousand or more, and one representing an association of ports;

(b) Three as representatives from the airline industry and the private sector;

(c) Two citizen representatives with one appointed from eastern Washington and one appointed from western Washington. The citizen appointees must:

(i) Represent the public interests in the communities that are included in the commission's site research; and

(ii) Understand the impacts of a large commercial aviation facility on a community;

(d) A representative from the freight forwarding industry;

(e) A representative from the trucking industry;

(f) A representative from a community organization that understands the impacts of a large commercial aviation facility on a community; and

(g) A representative from a statewide environmental organization.

(3) The remaining two members shall consist of:

(a) A representative from the department of commerce; and

(b) A representative from the division of aeronautics of the department of transportation.

(4) The commission shall invite the following nonvoting members:

(a) A representative from the Washington state aviation alliance;

(b) A representative from the department of defense;

(c) Two members from the senate, with one member from each of the two largest caucuses in the senate, appointed by the president of the senate;

(d) Two members from the house of representatives, with one member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives;

(e) A representative from the division of aeronautics of the department of transportation;

(f) A representative from an eastern Washington metropolitan planning organization;

(g) A representative from a western Washington metropolitan planning organization;

(h) A representative from an eastern Washington regional airport; and

(i) A representative from a western Washington regional airport.

(5) The governor may appoint additional nonvoting members as deemed appropriate.

(6) The commission shall select a chair from among its membership and shall adopt rules related to its powers and duties under this chapter.

(7) Legislative members of the commission are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW. The commission has all powers necessary to carry out its duties as prescribed by this chapter.

(8) The department of transportation shall provide staff support for coordinating and administering the commission and technical assistance as requested by commission members. The department shall consider cost-saving options such as using online conferencing tools. Meetings shall be held in Olympia, Washington unless resources allow for alternative locations.

(9) At the direction of the commission, and as resources allow, the department of transportation is authorized to hire a consultant to assist with the review and research efforts of the commission. The contract is exempt from the competitive procurement requirements in chapter 39.26 RCW.

(10) The department of transportation shall convene the initial meeting of the commission as soon as practicable.

(11) This section expires July 1, 2022.

NEW SECTION. Sec. 13. (1) The state commercial aviation coordinating commission will review existing data and conduct research to determine Washington's long-range commercial aviation facility needs and the site of a new primary commercial aviation facility. Research for each potential site must include the feasibility of constructing a commercial aviation facility in that location and its potential environmental, community, and economic impacts. Options for a new primary commercial aviation facility in Washington may include expansion of an existing airport facility but may not include siting a facility on or in the vicinity of a military installation that would be incompatible with the installation's ability to carry out its mission requirements. The work of the commission shall include the following:

(a) Recommendations to the legislature on future Washington state long-range commercial aviation facility needs including possible additional aviation facilities or expansion of current aviation facilities, excluding those located in a county with a population of two million or more, to meet anticipated commercial aviation, general aviation, and air cargo demands; and

(b) Identifying a preferred location for a new primary commercial aviation facility. The commission shall make recommendations and shall select a single preferred location by a sixty percent majority vote using the following process:

(i) Initiating a broad review of potential sites;

(ii) Recommending a final short list of no more than six locations by January 1, 2021;

(iii) Identifying the top two locations from the final six locations by September 1, 2021; and

(iv) Identifying a single preferred location for a new primary commercial aviation facility by January 1, 2022.

(2) The commission shall submit a report of its findings and recommendations to the transportation committees of the legislature by January 1, 2022. The commission must allow a minority report to be included with the commission report if requested by a voting member of the commission.

(3) This section expires July 1, 2022.

NEW SECTION. Sec. 14. (1) The state commercial aviation coordinating commission shall project a timeline for the development of an additional commercial aviation facility that is completed and functional by 2040.

(2) This section expires July 1, 2022.

NEW SECTION. Sec. 15. (1) Nothing in this act shall be construed to endorse, limit, or otherwise alter existing or future plans for capital development and capacity enhancement at existing commercial airports in Washington.

(2) This section expires July 1, 2022."

On page 1, line 2 of the title, after "commission;" strike the remainder of the title and insert "creating new sections; and providing expiration dates."

and that the bill do pass as recommended by the Conference Committee:

Senators Keiser, Saldana and Warnick
Representatives Dent, Fey and Orwall

There being no objection, the House adopted the conference committee report on SUBSTITUTE SENATE BILL NO. 5370 and advanced the bill as recommended by the conference committee to final passage.

FINAL PASSAGE OF HOUSE BILL AS RECOMMENDED BY CONFERENCE COMMITTEE

Representatives Orwall, Dent and Orcutt spoke in favor of the passage of the bill as recommended by the conference committee.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute Senate Bill No. 5370, as recommended by the conference committee.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5370, as recommended by the conference committee, and the bill passed the House by the following votes: 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber,

McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative Entenman.

SUBSTITUTE SENATE BILL NO. 5370, as recommended by the conference committee, having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 26, 2019

MR. SPEAKER:

The Senate receded from its amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1504, and under suspension of the rules returned ENGROSSED SUBSTITUTE HOUSE BILL NO. 1504 to second reading for purpose of amendment(s). The Senate further adopted amendment 1504-S.E AMS PEDE S4548.1 and passed the measure as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 16. RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the

following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun or bump-fire stock, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun or bump-fire stock in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any

deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun or bump-fire stock, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun or bump-fire stock in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the

statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

Notwithstanding any other provision of law, all impaired driving enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other impaired driving enhancements, for all offenses sentenced under this chapter.

An offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual

motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (a)(i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (a)(i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083,

9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

(13) An additional twelve months shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of sixteen who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other

sentencing provisions, including other minor child enhancements, for all offenses sentenced under this chapter. If the addition of a minor child enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(14) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.832.

Sec. 17. RCW 9.94A.729 and 2015 c 134 s 4 are each amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned. The department may approve a jail certification from a correctional agency that calculates early release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence. The department must adjust an offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the department's facilities. However, the department is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

(2)(a) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(b) An offender whose sentence includes any impaired driving enhancements under RCW 9.94A.533(7), minor child enhancements under RCW 9.94A.533(13), or both, shall not receive any good time credits or earned release time for any portion of his or her sentence that results from those enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender sentenced pursuant to RCW 10.95.030(3) or 10.95.035, the offender may not

receive any earned early release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence served by the offender, the aggregate earned release time may not exceed ten percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

(c) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(d) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (d)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(e) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(d) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(d) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who will be

supervised by the department pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728~~((5))~~ (1)(c);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan.

A voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) The department shall maintain a list of housing providers that meets the requirements of RCW 72.09.285. If more than two voucher recipients will be residing per dwelling unit, as defined in RCW 59.18.030, rental vouchers for those recipients may only be paid to a housing provider on the department's list;

(f) For each offender who is the recipient of a rental voucher, the department shall gather data as recommended by the Washington state institute for public policy in order to best demonstrate whether rental vouchers are effective in reducing recidivism.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

Sec. 18. RCW 10.21.055 and 2016 c 203 s 16 are each amended to read as follows:

(1)(a) When any person charged with a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior offense as defined in RCW 46.61.5055 and the current offense involves alcohol, is released from custody at arraignment or trial on bail or personal recognizance, the court authorizing the release shall require, as a condition of release that person comply with one of the following four requirements:

(i) Have a functioning ignition interlock device installed on all motor vehicles operated by the person, with proof of installation filed with the court by the person or the certified interlock provider within five business days of the date of release from custody or as soon thereafter as determined by the court based on availability within the jurisdiction; or

(ii) Comply with 24/7 sobriety program monitoring, as defined in RCW 36.28A.330; or

(iii) Have an ignition interlock device on all motor vehicles operated by the person pursuant to (a)(i) of this subsection and submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of this subsection, if available, or alcohol monitoring, at the expense of the person, as provided in RCW 46.61.5055(5) (b) and (c); or

(iv) Have an ignition interlock device on all motor vehicles operated by the person and that such person agrees not to operate any motor vehicle without an ignition interlock device as required by the court. Under this subsection (1)(a)(iv), the person must file a sworn statement with the court upon release at arraignment that states the person will not operate any motor vehicle without an ignition interlock device while the ignition interlock restriction is imposed by the court. Such person must also submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of this subsection, if available, or alcohol monitoring, at the expense of the person, as provided in RCW 46.61.5055(5) (b) and (c).

(b) The court shall immediately notify the department of licensing when an ignition interlock restriction is imposed~~((:-(i)))~~ as a condition of release ~~((pursuant to (a) of this subsection;))~~ or ~~((ii))~~ after conviction in instances where a person is charged with, or convicted of, a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522~~((, and the offense involves alcohol))~~. If the court imposes an ignition interlock restriction, the department of licensing shall attach or imprint a notation on the driving record of any person restricted under this section stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device.

(2)(a) Upon acquittal or dismissal of all pending or current charges relating to a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, or equivalent local ordinance, the court shall authorize removal of the ignition interlock device and lift any requirement to comply with electronic alcohol/drug monitoring imposed under subsection (1) of this section. Nothing in this section limits

the authority of the court or department under RCW 46.20.720.

(b) If the court authorizes removal of an ignition interlock device imposed under this section, the court shall immediately notify the department of licensing regarding the lifting of the ignition interlock restriction and the department of licensing shall release any attachment, imprint, or notation on such person's driving record relating to the ignition interlock requirement imposed under this section.

(3) When an ignition interlock restriction imposed as a condition of release is canceled, the court shall provide a defendant with a written order confirming release of the restriction. The written order shall serve as proof of release of the restriction until which time the department of licensing updates the driving record.

Sec. 19. RCW 38.52.430 and 2012 c 183 s 6 are each amended to read as follows:

A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, RCW 46.61.504; (3) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; ~~((3))~~ (4) use of a vessel while under the influence of alcohol or drugs, RCW 79A.60.040; ~~((4))~~ (5) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or ~~((5))~~ (6) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied. Following a conviction of an offense listed in this section, and prior to sentencing, the prosecution may present to the court information setting forth the expenses incurred by the public agency for its emergency response to the incident. Upon a finding by the court that the expenses are reasonable, the court shall order the defendant to reimburse the public agency. The cost reimbursement shall be included in the sentencing order as an additional monetary obligation of the defendant and may not be substituted for any other fine or cost required or allowed by statute. The court may establish a payment schedule for the payment of the cost reimbursement, separate from any payment schedule imposed for other fines and costs. All payments for the cost reimbursement must be remitted directly to the public agency or agencies that incurred the cost associated with the emergency response.

In no event shall a person's liability under this section for the expense of an emergency response exceed two thousand five hundred dollars for a particular incident.

If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of chapter 39.34 RCW.

Sec. 20. RCW 46.20.245 and 2005 c 288 s 1 are each amended to read as follows:

(1) Whenever the department proposes to withhold the driving privilege of a person or disqualify a person from operating a commercial motor vehicle and this action is made mandatory by the provisions of this chapter or other law, the department must give notice to the person in writing by posting in the United States mail, appropriately addressed, postage prepaid, or by personal service. Notice by mail is given upon deposit in the United States mail. Notice given under this subsection must specify the date upon which the driving privilege is to be withheld which shall not be less than forty-five days after the original notice is given.

(2) For persons subject to suspension, revocation, or denial of a driver's license who are eligible for full credit under RCW 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section must also notify the person of the obligation to complete the requirements under RCW 46.20.311 and pay the probationary license fee under RCW 46.20.355 by the date specified in the notice in order to avoid license suspension.

(3) Within fifteen days after notice has been given to a person under subsection (1) of this section, the person may request in writing an administrative review before the department. If the request is mailed, it must be postmarked within fifteen days after the date the department has given notice. If a person fails to request an administrative review within fifteen days after the date the department gives notice, the person is considered to have defaulted and loses his or her right to an administrative review unless the department finds good cause for a request after the fifteen-day period.

(a) An administrative review under this subsection shall consist solely of an internal review of documents and records submitted or available to the department, unless the person requests an interview before the department, in which case all or any part of the administrative review may, at the discretion of the department, be conducted by telephone or other electronic means.

(b) The only issues to be addressed in the administrative review are:

(i) Whether the records relied on by the department identify the correct person; and

(ii) Whether the information transmitted from the court or other reporting agency or entity regarding the person accurately describes the action taken by the court or other reporting agency or entity.

(c) For the purposes of this section, the notice received from a court or other reporting agency or entity,

regardless of form or format, is prima facie evidence that the information from the court or other reporting agency or entity regarding the person is accurate. A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the withholding of the driving privilege.

(d) The action subject to the notification requirements of subsection (1) of this section shall be stayed during the administrative review process.

(e) Judicial review of a department order affirming the action subject to the notification requirements of subsection (1) of this section after an administrative review shall be available in the same manner as provided in RCW 46.20.308~~((9))~~ (8). The department shall certify its record to the court within thirty days after service upon the department of the petition for judicial review. The action subject to the notification requirements of subsection (1) of this section shall not automatically be stayed during the judicial review. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury.

~~((3))~~ (4) The department may adopt rules that are considered necessary or convenient by the department for purposes of administering this section, including, but not limited to, rules regarding expedited procedures for issuing orders and expedited notice procedures.

~~((4))~~ (5) This section does not apply where an opportunity for an informal settlement, driver improvement interview, or formal hearing is otherwise provided by law or rule of the department.

Sec. 21. RCW 46.20.3101 and 2016 c 203 s 18 are each amended to read as follows:

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal within seven years, or for a first refusal where there has been one or more previous incidents within seven years that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.08 or more, or that the THC concentration of the person's blood was 5.00 or more:

(a) For a first incident within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, suspension for ninety days, unless the person successfully completes or is enrolled in a pretrial 24/7 sobriety program;

(b) For a second or subsequent incident within seven years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.02 or more, or that the THC concentration of the person's blood was above 0.00:

(a) For a first incident within seven years, suspension or denial for ninety days;

(b) For a second or subsequent incident within seven years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

(4) The department shall grant credit on a day-for-day basis for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already served))~~ imposed under this section for any portion of a suspension, revocation, or denial ((imposed)) already served under RCW 46.61.5055 arising out of the same incident. If a person has already served a suspension, revocation, or denial under RCW 46.61.5055 for a period equal to or greater than the period imposed under this section, the department shall provide notice of full credit, shall provide for no further suspension or revocation under this section, and shall impose no additional reissue fees for this credit.

Sec. 22. RCW 46.20.355 and 1998 c 209 s 3 and 1998 c 41 s 5 are each reenacted and amended to read as follows:

(1) Upon receipt of an abstract indicating a deferred prosecution has been granted under RCW 10.05.060, or upon receipt of a notice of conviction of RCW 46.61.502 or 46.61.504, the department of licensing shall order the person to surrender any nonprobationary Washington state driver's license that may be in his or her possession. The department shall revoke the license, permit, or privilege to drive of any person who fails to surrender it as required by this section for one year, unless the license has been previously surrendered to the department, a law enforcement officer, or a court, or the person has completed an affidavit of lost, stolen, destroyed, or previously surrendered license, such revocation to take effect thirty days after notice is given of the requirement for license surrender.

(2) The department shall place a person's driving privilege in probationary status as required by RCW 10.05.060 or 46.61.5055 for a period of five years from the date the probationary status is required to go into effect.

(3) Following receipt of an abstract indicating a deferred prosecution has been granted under RCW 10.05.060, or upon reinstatement or reissuance of a driver's license suspended or revoked as the result of a conviction of RCW 46.61.502 or 46.61.504, the department shall require the person to obtain a probationary license in order to operate

a motor vehicle in the state of Washington, except as otherwise exempt under RCW 46.20.025. The department shall not issue the probationary license unless the person is otherwise qualified for licensing, and the person must renew the probationary license on the same cycle as the person's regular license would have been renewed until the expiration of the five-year probationary status period imposed under subsection (2) of this section.

(4) If a person is eligible for full credit under RCW 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued under RCW 46.20.245, has completed the requirements under RCW 46.20.311 and paid the fee under subsection (5) of this section, the department shall issue a probationary license on the date specified in the notice with no further action required of the person.

(5) For each original issue or renewal of a probationary license under this section, the department shall charge a fee of fifty dollars in addition to any other licensing fees required. Except for when renewing a probationary license, the department shall waive the requirement to obtain an additional probationary license and the fifty dollar fee if the person has a probationary license in his or her possession at the time a new probationary license is required.

~~((5))~~ (6) A probationary license shall enable the department and law enforcement personnel to determine that the person is on probationary status. The fact that a person's driving privilege is in probationary status or that the person has been issued a probationary license shall not be a part of the person's record that is available to insurance companies.

Sec. 23. RCW 46.20.720 and 2017 c 336 s 5 are each amended to read as follows:

(1) Ignition interlock restriction. The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition interlock device:

(a) **Pretrial release.** Upon receipt of notice from a court that an ignition interlock device restriction has been imposed under RCW 10.21.055;

(b) **Ignition interlock driver's license.** As required for issuance of an ignition interlock driver's license under RCW 46.20.385;

(c) **Deferred prosecution.** Upon receipt of notice from a court that the person is participating in a deferred prosecution program under RCW 10.05.020 for a violation of:

(i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance; or

(ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance if the person would be required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person in the event of a conviction;

(d) **Post conviction.** After any applicable period of mandatory suspension, revocation, or denial of driving privileges:

(i) Due to a conviction of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance; or

(ii) Due to a conviction of a violation of RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance if the person is required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person; or

(e) **Court order.** Upon receipt of an order by a court having jurisdiction that a person charged or convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the ignition interlock will prevent the vehicle from being started. The court shall also establish the period of time for which ignition interlock use will be required.

(2) **Calibration.** Unless otherwise specified by the court for a restriction imposed under subsection (1)(e) of this section, the ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of ~~((0.025))~~ 0.020 or more.

(3) **Duration of restriction.** A restriction imposed under:

(a) Subsection (1)(a) of this section shall remain in effect until:

(i) The court has authorized the removal of the device under RCW 10.21.055; or

(ii) The department has imposed a restriction under subsection (1)(b), (c), or (d) of this section arising out of the same incident.

(b) Subsection (1)(b) of this section remains in effect during the validity of any ignition interlock driver's license that has been issued to the person.

(c) Subsection (1)(c)(i) or (d)(i) of this section shall be for no less than:

(i) For a person who has not previously been restricted under this subsection, a period of one year;

(ii) For a person who has previously been restricted under (c)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (c)(ii) of this subsection, a period of ten years.

The restriction of a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who committed the offense while ~~((a))~~ one or more passengers under the age of sixteen ~~((was))~~ were in the vehicle shall be extended for an additional ~~((six-month))~~ period as required by RCW 46.61.5055(6)(a).

(d) Subsection (1)(c)(ii) or (d)(ii) of this section shall be for a period of no less than six months.

(e) The period of restriction under (c) or (d) of this subsection shall be extended by one hundred eighty days whenever the department receives notice that the restricted person has been convicted under RCW 46.20.740 or 46.20.750.

(f) Subsection (1)(e) of this section shall remain in effect for the period of time specified by the court.

(g) The period of restriction under (c) and (d) of this subsection based on incidents occurring on or after June 9, 2016, must be tolled for any period in which the person does not have an ignition interlock device installed on a vehicle owned or operated by the person unless the person receives a determination from the department that the person is unable to operate an ignition interlock device due to a physical disability. The department's determination that a person is unable to operate an ignition interlock device must be reasonable and be based upon good and substantial evidence. This determination is subject to review by a court of competent jurisdiction. The department may charge a person seeking a medical exemption under this subsection a reasonable fee for the assessment.

(4) Requirements for removal. A restriction imposed under subsection (1)(c) or (d) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the one hundred eighty consecutive days prior to the date of release:

(a) Any attempt to start the vehicle with a breath alcohol concentration of 0.04 or more unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than 0.04 and the digital image confirms the same person provided both samples;

(b) Failure to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed test;

(c) Failure to pass any random retest with a breath alcohol concentration of ~~((0.025))~~ 0.020 or lower unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than ~~((0.025))~~ 0.020, and the digital image confirms the same person provided both samples; or

(d) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

(5) Day-for-day credit. (a) The time period during which a person has an ignition interlock device installed in order to meet the requirements of subsection (1)(b) of this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is imposed under subsection (1)(c) or (d) of this section arising out of the same incident.

(b) The department must also give the person a day-for-day credit for any time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates,

other than those subject to the employer exemption under subsection (6) of this section.

(c) If the day-for-day credit granted under this subsection equals or exceeds the period of time the ignition interlock device restriction is imposed under subsection (1)(c) or (d) of this section arising out of the same incident, and the person has already met the requirements for removal of the device under subsection (4) of this section, the department may waive the requirement that a device be installed or that the person again meet the requirements for removal.

(6) Employer exemption. (a) Except as provided in (b) of this subsection, the installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(b) The employer exemption does not apply when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment.

(7) Ignition interlock device revolving account. In addition to any other costs associated with the use of an ignition interlock device imposed on the person restricted under this section, the person shall pay an additional fee of twenty-one dollars per month. Payments must be made directly to the ignition interlock company. The company shall remit the additional fee to the department to be deposited into the ignition interlock device revolving account, except that the company may retain twenty-five cents per month of the additional fee to cover the expenses associated with administering the fee. The department may waive the monthly fee if the person is indigent under RCW 10.101.010.

(8) Foreign jurisdiction. For a person restricted under this section who is residing outside of the state of Washington, the department may accept verification of installation of an ignition interlock device by an ignition interlock company authorized to do business in the jurisdiction in which the person resides, provided the device meets any applicable requirements of that jurisdiction. The department may waive the monthly fee required by subsection (7) of this section if collection of the fee would be impractical in the case of a person residing in another jurisdiction.

Sec. 24. RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720, 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a

functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped, unless the notation resulted from a restriction imposed as a condition of release and the restriction has been released by the court prior to driving. Any time a person is convicted under this section, the court shall immediately notify the department for purposes of RCW 46.20.720(3)(e).

(3) Any sentence imposed for a violation of subsection (2) of this section shall be served consecutively with any sentence imposed under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

Sec. 25. RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each amended to read as follows:

(1) A person who is restricted to the use of a vehicle equipped with an ignition interlock device is guilty of a gross misdemeanor if the restricted driver:

(a) Tamper with the device by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle;

(b) Uses or requests another person to use a filter or other device to circumvent the ignition interlock or to start or operate the vehicle to allow the restricted driver to operate the vehicle;

(c) Has, directs, authorizes, or requests another person to tamper with the device by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle; or

(d) Has, allows, directs, authorizes, or requests another person to blow or otherwise exhale into the device in order to circumvent the device to allow the restricted driver to operate the vehicle.

(2) A person who knowingly assists another person who is restricted to the use of a vehicle equipped with an ignition interlock device to circumvent the device or to start and operate that vehicle is guilty of a gross misdemeanor. The provisions of this subsection do not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the

vehicle and the person subject to the court order does not operate the vehicle.

(3) Any sentence imposed for a violation of subsection (1) of this section shall be served consecutively with any sentence imposed under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055, 46.61.520(1)(a), or 46.61.522(1)(b).

(4) Any time a person is convicted under subsection (1) of this section, the court shall immediately notify the department for purposes of RCW 46.20.720(3)(e).

Sec. 26. RCW 46.55.113 and 2011 c 167 s 6 are each amended to read as follows:

(1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(f) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under RCW 46.19.010 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(g) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ninety days or more;

(h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or

maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(i) When a vehicle with an expired registration of more than forty-five days is parked on a public street;

(j) Upon determining that a person restricted to use of only a motor vehicle equipped with a functioning ignition interlock device is operating a motor vehicle that is not equipped with such a device in violation of RCW 46.20.740(2).

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle or farm transport vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(~~(a)~~) (b)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

(5) For purposes of this section "farm transport vehicle" means a motor vehicle owned by a farmer and that is being actively used in the transportation of the farmer's or another farmer's farm, orchard, aquatic farm, or dairy products, including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, aquatic farm, or dairy, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more.

Sec. 27. RCW 46.61.500 and 2012 c 183 s 11 are each amended to read as follows:

(1) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a gross misdemeanor punishable by imprisonment for up to three hundred sixty-four days and by a fine of not more than five thousand dollars.

(2)(a) Subject to (b) of this subsection, the license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days.

(b) When a reckless driving conviction is a result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, the department shall grant credit on a day-for-day basis for any

portion of a suspension, revocation, or denial already served under an administrative action arising out of the same incident. In the case of a person whose day-for-day credit is for a period equal to or greater than the period of suspension required under this section, the department shall provide notice of full credit, shall provide for no further suspension under this section, and shall impose no additional reissue fees for this credit. During any period of suspension, revocation, or denial due to a conviction for reckless driving as the result of a charge originally filed as a violation of RCW 46.61.502 or 46.61.504, any person who has obtained an ignition interlock driver's license under RCW 46.20.385 may continue to drive a motor vehicle pursuant to the provision of the ignition interlock driver's license without obtaining a separate temporary restricted driver's license under RCW 46.20.391.

(3)(a) Except as provided under (b) of this subsection, a person convicted of reckless driving who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance.

(b) A person convicted of reckless driving shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug or RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug.

Sec. 28. RCW 46.61.504 and 2017 c 335 s 2 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section and it is an affirmative defense to any action pursuant to RCW 46.20.308 to suspend, revoke, or

deny the privilege to drive if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ~~(ten)~~ fifteen years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

Sec. 29. RCW 46.61.5055 and 2018 c 201 s 9009 are each amended to read as follows:

(1) **No prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring or a ninety-day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device or other separate alcohol monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Forty-eight

consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring or a one hundred twenty day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program testing as fulfilling a portion of posttrial sentencing. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(2) **One prior offense in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. In lieu of the mandatory term of imprisonment and electronic home monitoring under this subsection (2)(a)(i), the court may order a minimum of four days in jail and either one hundred eighty days of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory

minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of imprisonment and electronic home monitoring under this subsection (2)(b)(i), the court may order a minimum of six days in jail and either six months of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(3) **Two prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two prior offenses within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred twenty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred twenty days of electronic home monitoring, the court may order at least an additional eight days in jail. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) Penalty for alcohol concentration at least 0.15. In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in

writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(4) Three or more prior offenses in ((~~ten~~) fifteen) years. A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has three or more prior offenses within ((~~ten~~) fifteen) years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5) Monitoring. (a) Ignition interlock device. The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) Monitoring devices. If the court orders that a person refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(c) 24/7 sobriety program monitoring. In any county or city where a 24/7 sobriety program is available and verified by the Washington association of sheriffs and police chiefs, the court shall:

(i) Order the person to install and use a functioning ignition interlock or other device in lieu of such period of 24/7 sobriety program monitoring;

(ii) Order the person to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section; or

(iii) Order the person to install and use a functioning ignition interlock or other device in addition to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section.

(6) Penalty for having a minor passenger in vehicle. If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) Order the use of an ignition interlock or other device for an additional six months;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional twenty-four hours of imprisonment and a fine of not less than one thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional five days of imprisonment and a fine of not less than two thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment and a fine of not less than three thousand dollars and not more than ten thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(7) Other items courts must consider while setting penalties. In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property;

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers;

(c) Whether the driver was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater; and

(d) Whether a child passenger under the age of sixteen was an occupant in the driver's vehicle.

(8) Treatment and information school. An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) Driver's license privileges of the defendant. The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) **Penalty for alcohol concentration less than 0.15.** If the person's alcohol concentration was less than 0.15,

or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a ninety-day period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for fewer than two days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a six-month period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for less than one year; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) Penalty for alcohol concentration at least 0.15. If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a one hundred twenty day period of 24/7 sobriety program monitoring. In no circumstances shall the license revocation be for fewer than four days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) Penalty for refusing to take test. If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

Upon receipt of a notice from the court under RCW 36.28A.390 that a participant has been removed from a 24/7 sobriety program, the department must resume any suspension, revocation, or denial that had been terminated early under this subsection due to participation in the program, granting credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under RCW 46.20.3101 or this section arising out of the same incident.

Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked, suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) Probation of driving privilege. After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11) Conditions of probation. (a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive; (ii) not driving a motor vehicle within this state without proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020; (iii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; (iv) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug; and (v) not driving a motor vehicle in this state without a functioning ignition interlock device as required by the department under RCW 46.20.720. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) Waiver of electronic home monitoring. A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system. However, if a court determines that an alcohol monitoring device utilizing wireless reporting technology is reasonably available, the court may require the person to obtain such a device during the period of required electronic home monitoring;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, use of an ignition interlock device, the 24/7 sobriety program monitoring, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) Extraordinary medical placement. An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(1)(c).

(14) Definitions. For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.25.110 or an equivalent local ordinance;

(iv) A conviction for a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(v) A conviction for a violation of RCW 79A.60.040(1) or an equivalent local ordinance committed in a reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(vi) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed while under the influence of intoxicating liquor or any drug;

(vii) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed in a careless or reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 47.68.220 or an equivalent local ordinance while under the influence of intoxicating liquor or any drug;

(viii) A conviction for a violation of RCW 46.09.470(2) or an equivalent local ordinance;

(ix) A conviction for a violation of RCW 46.10.490(2) or an equivalent local ordinance;

(x) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(xi) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(xii) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(xiii) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (x), (xi), or (xii) of this subsection if committed in this state;

(xiv) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance;

(xv) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge

under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(xvi) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program; or

(xvii) A deferred sentence imposed in a prosecution for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or a violation of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Treatment" means substance use disorder treatment licensed or certified by the department of health;

(c) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(d) "Within ~~((ten))~~ fifteen years" means that the arrest for a prior offense occurred within ~~((ten))~~ fifteen years before or after the arrest for the current offense.

(15) All fines imposed by this section apply to adult offenders only.

Sec. 30. RCW 46.61.5055 and 2019 c ... s 14 (section 14 of this act) are each amended to read as follows:

(1) **No prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ~~((one day))~~ twenty-four consecutive hours nor more than three hundred sixty-four days. ~~((Twenty-four consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the~~

~~reason for granting the suspension and the facts upon which the suspension is based.~~) In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court, in its discretion, may order not less than fifteen days of electronic home monitoring or a ninety-day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device or other separate alcohol monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) Penalty for alcohol concentration at least 0.15. In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ~~((two days))~~ forty-eight consecutive hours nor more than three hundred sixty-four days. ~~((Forty eight consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based.))~~ In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court, in its discretion, may order not less than thirty days of electronic home monitoring or a one hundred twenty day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program testing as fulfilling a portion of posttrial sentencing. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(2) One prior offense in seven years. Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) Penalty for alcohol concentration less than 0.15. In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory term of imprisonment and electronic home monitoring under this subsection (2)(a)(i), the court may order a minimum of ((four days in jail and)) either one hundred eighty days of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring ~~((Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based)); and~~

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) Penalty for alcohol concentration at least 0.15. In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would

impose a substantial risk to the offender's physical or mental well-being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of imprisonment and electronic home monitoring under this subsection (2)(b)(i), the court may order a minimum of ((six days in jail and)) either six months of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring((-Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based)); and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(3) **Two prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two prior offenses within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred twenty days of electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial

risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of ninety days of imprisonment and one hundred twenty days of electronic home monitoring, the court may order ((at least an additional eight days in jail)) three hundred sixty days of electronic home monitoring or a three hundred sixty-day period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring((-Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based)); and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of one hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring, the court may order ((at least an additional ten days in jail)) three hundred sixty days of electronic home monitoring or a three hundred sixty-day period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. The offender shall pay for the cost of

the electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring(~~(—One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based);~~); and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(4) Three or more prior offenses in fifteen years.

A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has three or more prior offenses within fifteen years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5) Monitoring. (a) **Ignition interlock device.** The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) **Monitoring devices.** If the court orders that a person refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(c) **24/7 sobriety program monitoring.** In any county or city where a 24/7 sobriety program is available and

verified by the Washington association of sheriffs and police chiefs, the court shall:

(i) Order the person to install and use a functioning ignition interlock or other device in lieu of such period of 24/7 sobriety program monitoring;

(ii) Order the person to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section; or

(iii) Order the person to install and use a functioning ignition interlock or other device in addition to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section.

(6) Penalty for having a minor passenger in vehicle. If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while ~~((a))~~ one or more passengers under the age of sixteen ((was)) were in the vehicle, the court shall:

(a) Order the use of an ignition interlock or other device for an additional ~~((six))~~ twelve months for each passenger under the age of sixteen when the person is subject to the penalties under subsection (1)(a), (2)(a), or (3)(a) of this section; and order the use of an ignition interlock device for an additional eighteen months for each passenger under the age of sixteen when the person is subject to the penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this section;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional twenty-four hours of imprisonment to be served consecutively for each passenger under the age of sixteen, and a fine of not less than one thousand dollars and not more than five thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional five days of imprisonment to be served consecutively for each passenger under the age of sixteen, and a fine of not less than two thousand dollars and not more than five thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment to be served consecutively for each passenger under the age of sixteen, and a fine of not less than three thousand dollars and not more than ten thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent.

(7) Other items courts must consider while setting penalties. In exercising its discretion in setting

penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property;

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers;

(c) Whether the driver was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater; and

(d) Whether a child passenger under the age of sixteen was an occupant in the driver's vehicle.

(8) **Treatment and information school.** An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) **Driver's license privileges of the defendant.** (a) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

((a)) (i) **Penalty for alcohol concentration less than 0.15.** If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

((+)) (A) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a ninety-day period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for fewer than two days;

((+)) (B) Where there has been one prior offense within seven years, be revoked or denied by the department for two years or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a six-month period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for less than one year; or

((+)) (C) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

((b)) (ii) **Penalty for alcohol concentration at least 0.15.** If the person's alcohol concentration was at least 0.15:

((+)) (A) Where there has been no prior offense within seven years, be revoked or denied by the department for one year or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a one hundred

twenty day period of 24/7 sobriety program monitoring. In no circumstances shall the license revocation be for fewer than four days;

((+)) (B) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

((+)) (C) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

((e)) (iii) **Penalty for refusing to take test.** If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

((+)) (A) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

((+)) (B) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

((+)) (C) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

(b)(i) The department shall grant credit on a day-for-day basis for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already served))~~ imposed under this subsection (9) for any portion of a suspension, revocation, or denial ~~((imposed))~~ already served under RCW 46.20.3101 arising out of the same incident.

(ii) If a person has already served a suspension, revocation, or denial under RCW 46.20.3101 for a period equal to or greater than the period imposed under this subsection (9), the department shall provide notice of full credit, shall provide for no further suspension or revocation under this subsection provided the person has completed the requirements under RCW 46.20.311 and paid the probationary license fee under RCW 46.20.355 by the date specified in the notice under RCW 46.20.245, and shall impose no additional reissue fees for this credit.

(c) Upon receipt of a notice from the court under RCW 36.28A.390 that a participant has been removed from a 24/7 sobriety program, the department must resume any suspension, revocation, or denial that had been terminated early under this subsection due to participation in the program, granting credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under RCW 46.20.3101 or this section arising out of the same incident.

(d) Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked, suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke,

suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

(e) For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) **Probation of driving privilege.** After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11) **Conditions of probation.** (a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive; (ii) not driving a motor vehicle within this state without proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020; (iii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; (iv) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug; and (v) not driving a motor vehicle in this state without a functioning ignition interlock device as required by the department under RCW 46.20.720. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) **Waiver of electronic home monitoring.** A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system. However, if a court determines that an alcohol monitoring device utilizing wireless reporting technology is reasonably available, the court may require the person to obtain such a device during the period of required electronic home monitoring;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, use of an ignition interlock device, the 24/7 sobriety program monitoring, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) **Extraordinary medical placement.** An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(1)(c).

(14) **Definitions.** For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.25.110 or an equivalent local ordinance;

(iv) A conviction for a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(v) A conviction for a violation of RCW 79A.60.040(1) or an equivalent local ordinance committed in a reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(vi) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed while under the influence of intoxicating liquor or any drug;

(vii) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed in a careless or reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 47.68.220 or an equivalent local ordinance while under the influence of intoxicating liquor or any drug;

(viii) A conviction for a violation of RCW 46.09.470(2) or an equivalent local ordinance;

(ix) A conviction for a violation of RCW 46.10.490(2) or an equivalent local ordinance;

(x) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(xi) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(xii) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(xiii) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (x), (xi), or (xii) of this subsection if committed in this state;

(xiv) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance;

(xv) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(xvi) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program; or

(xvii) A deferred sentence imposed in a prosecution for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or a violation of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Treatment" means substance use disorder treatment licensed or certified by the department of health;

(c) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(d) "Within fifteen years" means that the arrest for a prior offense occurred within fifteen years before or after the arrest for the current offense.

(15) All fines imposed by this section apply to adult offenders only.

Sec. 31. RCW 46.61.502 and 2017 c 335 s 1 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor, marijuana, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the

omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class B felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ~~(ten)~~ fifteen years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

Sec. 32. RCW 9.94A.525 and 2017 c 272 s 3 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate crimes for the offense as defined by RCW 46.61.5055(14) shall be included in the offender score, and prior convictions for felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)) shall always be included in the offender score. All other convictions of the defendant shall be scored according to this section.

(f) Prior convictions for a repetitive domestic violence offense, as defined in RCW 9.94A.030, shall not be included in the offender score if, since the last date of release from confinement or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(g) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony

conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior

escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW (~~9A.44.130 or~~) 9A.44.132, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW (~~9A.44.130 or~~) 9A.44.132, which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was pleaded and proven, count priors as in subsections (7) through (20) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for any of the following offenses: A felony violation of a no-contact or protection order RCW 26.50.110, felony Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW 9A.40.040), Robbery 1 (RCW

9A.56.200), Robbery 2 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

(b) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after July 23, 2017, for any of the following offenses: Assault of a child in the first degree, RCW 9A.36.120; Assault of a child in the second degree, RCW 9A.36.130; Assault of a child in the third degree, RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree, RCW 9A.42.030;

(c) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for the offenses listed in (a) of this subsection; and

(d) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was pleaded and proven after August 1, 2011.

(22) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

Sec. 33. RCW 46.20.311 and 2016 c 203 s 12 are each amended to read as follows:

(1)(a) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as specifically permitted under RCW 46.20.267, 46.20.342, or other provision of law.

(b) Except for a suspension under RCW 46.20.267, 46.20.289, 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(c) If the suspension is the result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and

participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the department shall determine the person's eligibility for licensing based upon the reports provided by the alcohol or drug dependency agency required under RCW 46.61.524 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. The department may waive the requirement for written verification under this subsection if it determines to its satisfaction that a device previously verified as having been installed on a vehicle owned or operated by the person is still installed and functioning or as permitted by RCW 46.20.720(8). If, based upon notification from the interlock provider or otherwise, the department determines that an interlock required under RCW 46.20.720 is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(d) Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order.

(e)(i) The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of seventy-five dollars.

(ii) If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be one hundred (~~fifty~~) seventy-five dollars.

(2)(a) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (i) After the expiration of one year from the date the license or privilege to drive was revoked; (ii) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the expiration of two years for persons convicted of vehicular homicide; or (iv) after the expiration of the applicable revocation period provided by RCW 46.20.265.

(b)(i) After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of seventy-five dollars.

(ii) If the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one hundred (~~fifty~~) seventy-five dollars. If the revocation is the result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the department shall determine the person's eligibility for licensing based upon the reports provided by the alcohol or drug dependency agency required under RCW 46.61.524 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person applying for a new license. The department may waive the requirement for written verification under this subsection if it determines to its satisfaction that a device previously verified as having been installed on a vehicle owned or operated by the person is still installed and functioning or as permitted by RCW 46.20.720(8). If, following issuance of a new license, the department determines, based upon notification from the interlock provider or otherwise, that an interlock required under RCW 46.20.720 is no longer functioning, the department shall suspend the person's license or privilege to drive until the department has received written verification from an interlock provider that a functioning interlock is installed.

(c) Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3)(a) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or

renewal license until the person pays a reissue fee of seventy-five dollars.

(b) If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (i) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (ii) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be one hundred (~~forty~~) seventy-five dollars.

Sec. 34. RCW 46.20.385 and 2017 c 336 s 4 are each amended to read as follows:

(1)(a) Any person licensed under this chapter or who has a valid driver's license from another state, who is convicted of: (i) A violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or (ii) a violation of RCW 46.61.520(1)(a) or an equivalent local or out-of-state statute or ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1) (b) or (c) if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW 46.61.522(1)(b) or an equivalent local or out-of-state statute or ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522(1)(b) committed while under the influence of intoxicating liquor or any drug, or (vi) who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, or who is otherwise permitted under subsection (8) of this section, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial, unless otherwise permitted under RCW 46.20.720(6).

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of

administrative action and criminal conviction arising out of the same incident.

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty-one dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional fee to the department, except that the company may retain twenty-five cents per month of the additional fee to cover the expenses associated with administering the fee.

(b) The department shall deposit the proceeds of the twenty-one dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

(8)(a) Any person licensed under this chapter who is convicted of a violation of RCW 46.61.500 when the charge was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, may submit to the department an application for an ignition interlock driver's license under this section.

(b) A person who does not have any driver's license under this chapter, but who would otherwise be eligible under this section to apply for an ignition interlock license, may submit to the department an application for an ignition interlock license. The department may require the person to take any driver's licensing examination under this chapter and may require the person to also apply and qualify for a temporary restricted driver's license under RCW 46.20.391.

NEW SECTION. Sec. 35. (1) Within existing resources, the Washington association of sheriffs and police chiefs shall review current laws and regulations regarding the sentencing structure for impaired driving offenses in an effort to reduce fatalities from individuals driving under the influence. The review must include looking at lookback periods, number of previous offenses, and other possible recommendations to reduce these fatalities. The Washington association of sheriffs and police chiefs shall provide its recommendations to the governor and appropriate committees of the legislature by December 1, 2019.

(2) This section expires June 30, 2020.

NEW SECTION. Sec. 36. RCW 43.43.3951 (Ignition interlock devices—Limited exemption for companies not using devices employing fuel cell technology) and 2010 c 268 s 3 are each repealed.

NEW SECTION. Sec. 37. Sections 2, 3, 5 through 10, 12, 15, and 19 of this act take effect January 1, 2020."

On page 1, line 1 of the title, after "driving;" strike the remainder of the title and insert "amending RCW 9.94A.533, 9.94A.729, 10.21.055, 38.52.430, 46.20.245, 46.20.3101, 46.20.720, 46.20.740, 46.20.750, 46.55.113, 46.61.500, 46.61.504, 46.61.5055, 46.61.5055, 46.61.502, 9.94A.525, 46.20.311, and 46.20.385; reenacting and amending RCW 46.20.355; creating a new section; repealing RCW 43.43.3951; prescribing penalties; providing an effective date; and providing an expiration date."

Sarah Bannister, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1504 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 26, 2019

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1789 with the following amendment:

On page 2, line 29, after "~~((Twelve))~~", strike "Eighteen" and insert "Fifteen"

and the same is herewith transmitted.

Sarah Bannister, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1789 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Fey and Barkis spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1789, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1789, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 85; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kirby, Klippert, Kloba, Kretz, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Peterson, Pettigrew, Pollet, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Blake, DeBolt, Kilduff, Kraft, Leavitt, McCaslin, Mead, Orcutt, Paul, Pellicciotti, Ramos and Shewmake.

Excused: Representative Entenman.

ENGROSSED HOUSE BILL NO. 1789, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on Engrossed House Bill No. 1789.

Representative McCaslin, 4th District

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5668, by Senate Committee on Ways & Means (originally sponsored by Takko, Warnick and Fortunato)

Concerning moneys received at auctions conducted by registered tow truck operators. Revised for 1st Substitute: Concerning taxation of abandoned vehicles sold at auctions conducted by registered tow truck operators.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Kirby and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5668.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5668, and the bill passed the House by the following vote: Yeas, 95; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Bergquist and Hudgins.

Excused: Representative Entenman.

SUBSTITUTE SENATE BILL NO. 5668, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5183, by Senate Committee on Housing Stability & Affordability (originally sponsored by Kuderer, Pedersen, Wellman, Saldaña, Liias, Wilson and C.)

Concerning relocation assistance for manufactured/mobile home park tenants. Revised for 1st Substitute: Concerning relocation assistance for manufactured/mobile home park tenants. (REVISED FOR ENGROSSED: Concerning manufactured/mobile homes.)

The bill was read the second time.

Representative Gregerson moved the adoption of amendment (823):

On page 24, after line 33, insert the following:

"Sec. 17. RCW 59.20.060 and 2019 c ... (ESHB 1582) s 3 are each amended to read as follows:

(1) Any mobile home space tenancy regardless of the term, shall be based upon a written rental agreement, signed by the parties, which shall contain:

(a) The terms for the payment of rent, including time and place, and any additional charges to be paid by the tenant. Additional charges that occur less frequently than monthly shall be itemized in a billing to the tenant;

(b) Reasonable rules for guest parking which shall be clearly stated;

(c) The rules and regulations of the park;

(d) The name and address of the person who is the landlord, and if such person does not reside in the state there shall also be designated by name and address a person who resides in the county where the mobile home park is located who is authorized to act as agent for the purposes of service of notices and process. If no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered the agent;

(e) The name and address of any party who has a secured interest in the mobile home, manufactured home, or park model;

(f) A forwarding address of the tenant or the name and address of a person who would likely know the whereabouts of the tenant in the event of an emergency or an abandonment of the mobile home, manufactured home, or park model;

(g)(i) A covenant by the landlord that, except for acts or events beyond the control of the landlord, the mobile home park will not be converted to a land use that will prevent the space that is the subject of the lease from

continuing to be used for its intended use for a period of three years after the beginning of the term of the rental agreement;

(ii) A rental agreement may, in the alternative, contain a statement that: "The park may be sold or otherwise transferred at any time with the result that subsequent owners may close the mobile home park, or that the landlord may close the park at any time after the required closure notice as provided in RCW 59.20.080." The covenant or statement required by this subsection must: (A) Appear in print that is in bold face and is larger than the other text of the rental agreement; (B) be set off by means of a box, blank space, or comparable visual device; and (C) be located directly above the tenant's signature on the rental agreement;

(h) A copy of a closure notice, as required in RCW 59.20.080, if such notice is in effect;

(i) The terms and conditions under which any deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement if any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a rental agreement;

(j) A listing of the utilities, services, and facilities which will be available to the tenant during the tenancy and the nature of the fees, if any, to be charged together with a statement that, in the event any utilities are changed to be charged independent of the rent during the term of the rental agreement, the landlord agrees to decrease the amount of the rent charged proportionately;

(k) A written description, picture, plan, or map of the boundaries of a mobile home space sufficient to inform the tenant of the exact location of the tenant's space in relation to other tenants' spaces;

(l) A written description, picture, plan, or map of the location of the tenant's responsibility for utility hook-ups, consistent with RCW 59.20.130(6);

(m) A statement of the current zoning of the land on which the mobile home park is located;

(n) A statement of the expiration date of any conditional use, temporary use, or other land use permit subject to a fixed expiration date that is necessary for the continued use of the land as a mobile home park; and

(o) A written statement containing accurate historical information regarding the past five years' rental amount charged for the lot or space.

(2) Any rental agreement executed between the landlord and tenant shall not contain any provision:

(a) Which allows the landlord to charge a fee for guest parking unless a violation of the rules for guest parking occurs: PROVIDED, That a fee may be charged for guest parking which covers an extended period of time as defined in the rental agreement;

(b) Which authorizes the towing or impounding of a vehicle except upon notice to the owner thereof or the tenant whose guest is the owner of the vehicle;

(c) Which allows the landlord to alter the due date for rent payment or increase the rent: (i) During the term of the rental agreement if the term is less than two years, or (ii) more frequently than annually if the initial term is for two years or more: PROVIDED, That a rental agreement may include an escalation clause for a pro rata share of any increase in the mobile home park's real property taxes or utility assessments or charges, over the base taxes or utility assessments or charges of the year in which the rental agreement took effect, if the clause also provides for a pro rata reduction in rent or other charges in the event of a reduction in real property taxes or utility assessments or charges, below the base year: PROVIDED FURTHER, That a rental agreement for a term exceeding two years may provide for annual increases in rent in specified amounts or by a formula specified in such agreement. Any rent increase authorized under this subsection (2)(c) that occurs within the closure notice period pursuant to RCW 59.20.080(1)(e) may not be more than one percentage point above the United States consumer price index for all urban consumers, housing component, published by the United States bureau of labor statistics in the periodical "Monthly Labor Review and Handbook of Labor Statistics" as established annually by the department of commerce;

(d) By which the tenant agrees to waive or forego rights or remedies under this chapter;

(e) Allowing the landlord to charge an "entrance fee" or an "exit fee." However, an entrance fee may be charged as part of a continuing care contract as defined in RCW 70.38.025;

(f) Which allows the landlord to charge a fee for guests: PROVIDED, That a landlord may establish rules charging for guests who remain on the premises for more than fifteen days in any sixty-day period;

(g) By which the tenant agrees to waive or forego homestead rights provided by chapter 6.13 RCW. This subsection shall not prohibit such waiver after a default in rent so long as such waiver is in writing signed by the husband and wife or by an unmarried claimant and in consideration of the landlord's agreement not to terminate the tenancy for a period of time specified in the waiver if the landlord would be otherwise entitled to terminate the tenancy under this chapter; or

(h) By which, at the time the rental agreement is entered into, the landlord and tenant agree to the selection of a particular arbitrator.

(3) Any provision prohibited under this section that is included in a rental agreement is unenforceable.

Sec. 18. RCW 59.20.--- and 2019 c ... (ESHB 1582) s 9 are each amended to read as follows:

(1) A court may order an unlawful detainer action to be of limited dissemination for one or more persons if: (a) The court finds that the plaintiff's case was sufficiently without basis in fact or law; (b) the tenancy was reinstated by the court; or (c) other good cause exists for limiting

dissemination of the unlawful detainer action (~~in accordance with court rule GR-15~~).

(2) An order to limit dissemination of an unlawful detainer action must be in writing.

(3) When an order for limited dissemination of an unlawful detainer action has been entered with respect to a person, a tenant screening service provider must not: (a) Disclose the existence of that unlawful detainer action in a tenant screening report pertaining to the person for whom dissemination has been limited, or (b) use the unlawful detainer action as a factor in determining any score or recommendation to be included in a tenant screening report pertaining to the person for whom dissemination has been limited.

NEW SECTION. Sec. 19. Sections 17 and 18 of this act take effect only if chapter ... (Engrossed Substitute House Bill No. 1582), Laws of 2019 is enacted by August 1, 2019."

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

Representatives Gregerson and Jenkin spoke in favor of the adoption of the amendment.

Amendment (823) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Ryu, Barkis, Irwin, Doglio and Harris spoke in favor of the passage of the bill.

Representatives Jenkin and Kraft spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5183, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5183, as amended by the House, and the bill passed the House by the following vote: Yeas, 93; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos,

Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Jenkin, Kraft, McCaslin and Shea.

Excused: Representative Entenman.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5183, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5091, by Senate Committee on Ways & Means (originally sponsored by Wellman, Conway, Darneille, Wilson, C., Kuderer and Takko)

Concerning state and federal special education funding.

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Education was not adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

With the consent of the House, amendment (689) to the committee striking amendment, was withdrawn.

Representative Dolan moved the adoption of amendment (813) to the committee striking amendment:

On page 1, beginning on line 19, after "to" strike all material through "to" on line 25

On page 4, line 17, after "and" strike "two-tenths" and insert "three-tenths"

On page 5, line 30, after "(b)" strike "A" and insert "(i) Subject to the limitation in (b)(ii) of this subsection (2), a"

On page 5, at the beginning of line 33, strike "enrolled in special education" and insert "receiving special education, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten"

On page 5, at the beginning of line 35, strike "either"

On page 5, line 36, strike "(i) 1.00" and insert "(A) In the 2019-20 school year, 0.995 for students eligible for and receiving special education."

(B) Beginning in the 2020-21 school year, either:

(I) 1.0075"

On page 6, at the beginning of line 1, strike "(ii) 0.9823" and insert "(II) 0.995"

On page 6, after line 3, insert the following:

"(ii) If the enrollment percent exceeds thirteen and five-tenths percent, the excess cost allocation calculated under (b)(i) of this subsection must be adjusted by multiplying the allocation by thirteen and five-tenths percent divided by the enrollment percent."

On page 6, beginning on line 22, after "education enrollment." strike all material through "percent." on line 26

Representatives Dolan, Steele, Eslick and Pollet spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Caldier spoke against the adoption of the amendment to the committee striking amendment.

Amendment (813) to the committee striking amendment was adopted.

Representative Stokesbary moved the adoption of amendment (677) to the committee striking amendment:

On page 1, beginning on line 3, strike all of section 1 and insert the following:

"NEW SECTION. Sec. 1. (1) The state of Washington stands at a critical juncture in the education of students with disabilities, especially those students who are receiving special education and related services. For too long special education in Washington has languished with a piecemeal approach in both funding and practice. When compared to other states, including those with comparable funding, students with disabilities in Washington lag behind their peers. Washington ranks near the bottom nationally for inclusion of students with disabilities: Only seven states having a lower percentage of students with disabilities spending eighty percent or more of their day in the general education classroom; and only five percent of Washington students with intellectual disabilities spending a majority of their day in general education classrooms. Washington does not fare much better when it comes to other basic indicators of success: Thirty-four percent of students with disabilities dropped out of school in 2017 (only two other states reported worse dropout rates); and only fifty-eight percent of students receiving special education services earned their diploma in 2016 (this puts Washington in the bottom thirteen in the nation).

(2) The legislature intends to provide the funding necessary to support a comprehensive and responsive education system that fully addresses the needs of students with disabilities, especially those students who are receiving special education and related services. Under the current funding model, students with disabilities are funded as basic education students first, with additional funding provided through a statewide multiplier intended to meet the additional needs of each student as established in the

student's individualized education program. Additionally, a safety net administered by the office of the superintendent of public instruction is available for school districts that demonstrate significant extra need beyond what they receive from the base funding formula.

(3) The legislature notes that school districts across the state have identified the need for additional resources to create the educational environment necessary to give every student with an individualized education program the opportunity to succeed. It is the legislature's intent to maintain the current funding structure for special education with necessary resources and to collect data related to the numbers of students who fall into different cost categories of support. These additional data will inform whether an alternative system of funding may be necessary to better reflect current needs of our schools and our students. However, as these data are collected, the legislature also intends to provide immediate relief to school district special education programs by enhancing the supplemental funding school districts receive for every student in the program of special education and to provide easier access to the safety net when those base funds are not adequate.

(4) Inclusive education practices significantly improve outcomes for students with disabilities and have significant benefits for all students in the classroom. It is the legislature's intent to develop best practices for inclusion in numerous settings and to ensure that the best practices are supported statewide. It is the legislature's intent to increase the graduation rate of students receiving special education services to seventy percent by 2025.

(5) With fiscal and policy supports provided in this act, Washington will advance expectations and lay a foundation that commits to ensuring every student with a disability has an opportunity to live a full, meaningful, and productive life."

On page 7, after line 26, insert the following:

"NEW SECTION. Sec. 7. A new section is added to chapter 28A.415 RCW to read as follows:

School districts and educational service districts must embed in any professional development provided to general education teachers the best practices for differentiating instruction and learning activities to meet each student's individual needs.

NEW SECTION. Sec. 8. A new section is added to chapter 43.06B RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, and as described in this section, the office of the education ombuds shall serve as the lead agency to provide information and training to students, families, educational service district and school district staff, and communities regarding the special education services and disability accommodations processes under the federal individuals with disabilities education act, section 504 of the federal rehabilitation act of 1973, and the federal Americans with disabilities act.

(2)(a) The office of the education ombuds must develop a multicourse training program for students with disabilities, families of students with disabilities, educational service district and school district staff, and community and educational organizations supporting students with disabilities.

(b) The training program must address the components of: A free and appropriate public education, family-school relationships, navigation of the special education services and disability accommodations processes, advocacy by families of students with disabilities, self-advocacy for students with disabilities, and communication strategies and conflict resolution between families and educators.

(c) The training program must be developed, and revised annually, in consultation with students with disabilities and their families, and at least one representative each from: An educational service district or school district, a community-based organization that advocates for students with disabilities, a state organization that represents parents and teachers, and the office of the superintendent of public instruction.

(d) The office of the education ombuds must develop publications, online training, videos, and other resources to supplement the training program.

(3)(a) For the purpose of delivering the training program to students, families, educational service district and school district staff, and communities across the state, the office of the education ombuds must distribute special education outreach ombuds statewide, with the goal of at least one special education outreach ombud located within the boundaries of each educational service district.

(b) The office of the education ombuds, and its special education outreach ombuds, may deliver the training program in partnership with other entities, such as Washington professional educator standards board-approved teacher preparation programs, educational service districts, school districts, and community and educator organizations that provide professional development or that support students with disabilities.

(4) The office of the education ombuds must make the training program available to other ombuds offices within Washington, as well as nationally.

(5) The office of the education ombuds may charge for the delivery of the training program, or the use of resources, developed under this section.

NEW SECTION. Sec. 9. A new section is added to chapter 43.06B RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, in addition to the duties under RCW 43.06B.020, the office of the education ombuds must provide special education advocacy services when requested by a child with a disability or a member of the child's family.

(2) In providing special education advocacy services, the office of the education ombuds must:

(a) Serve as a resource for the child with a disability who is eligible for special education due to the disability and the child's parents and family;

(b) Advocate on behalf of the child for a free and appropriate public education from the public school system that emphasizes special education and related services that are:

(i) Provided in the least restrictive environment;

(ii) Designed to meet the child's unique needs;

(iii) Appropriately ambitious and reasonably calculated to enable the child to make progress in light of the child's circumstances; and

(iv) Addressing the child's further education, employment, and independent living goals; and

(c) Assist parents with any one or more of the following:

(i) Preparing for a meeting to develop or update their child's individualized education program;

(ii) Attending the individualized education program meetings to help present the parents' concerns, negotiate components that meet the parents' goals and requests, or otherwise assist with, the understanding and navigation of the process;

(iii) Attending an individualized education program meeting on behalf of the child to assist in writing an appropriate program when a parent opts out or otherwise cannot attend the meeting.

NEW SECTION. Sec. 10. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Each school district shall convene an ongoing special education advisory committee. The purposes of the committee are to:

(a) Increase parental and family involvement by providing a forum for parents, families, and the community to ask questions, propose solutions, and otherwise give feedback on the special education program in their schools; and

(b) Be a partner with the school district in its efforts to provide effective special education programming for eligible students with disabilities.

(2) The committee shall advise the school board through the school district superintendent.

(3) The school district board of directors shall appoint committee members as provided in this subsection. At a minimum, a majority of the committee members must be parents of children with disabilities or individuals with disabilities. The committee must also include one teacher member. Additional school or school district personnel shall serve only as consultants to the committee.

(4) The committee has the following duties:

(a) Advise the school district of needs in the education of children with disabilities;

(b) Participate in the development of priorities and strategies for meeting the identified needs of children with disabilities;

(c) Facilitate partnerships with community employers to provide appropriate transition services;

(d) Facilitate trainings by experienced outside consultants not employed by the school district, at least two times per school year, to families of children with disabilities to teach families how to advocate for their child and to teach students with disabilities how to self-advocate;

(e) Submit periodic reports and recommendations to the school district superintendent for transmission to the school district board of directors regarding the education of children with disabilities;

(f) Assist the school district in interpreting plans to the community for meeting the special needs of children with disabilities for educational and transition services; and

(g) Review the school district proposed policies and procedures for the provision of special education and related services prior to submission to the school district board of directors.

(5) Committee meetings must be held at least four times in a school year and must be open to the public.

(6) The school district must post on its web site: The names of the committee members; the committee meeting schedule and agendas; and information on the process for interested parties to express their views to the committee.

Sec. 11. RCW 28A.657.110 and 2013 c 159 s 12 are each amended to read as follows:

(1) By November 1, 2013, the state board of education shall propose rules for adoption establishing an accountability framework that creates a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. The board must seek input from the public and interested groups in developing the framework. Based on the framework, the superintendent of public instruction shall design a comprehensive system of specific strategies for recognition, provision of differentiated support and targeted assistance, and, if necessary, requiring intervention in schools and school districts. The superintendent shall submit the system design to the state board of education for review. The state board of education shall recommend approval or modification of the system design to the superintendent no later than January 1, 2014, and the system must be implemented statewide no later than the 2014-15 school year. To the extent state funds are appropriated for this purpose, the system must apply equally to Title I, Title I-eligible, and non-Title I schools in the state.

(2) The state board of education shall develop a Washington achievement index to identify schools and school districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and school districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and school districts to self-assess their progress, and enable the identification of schools with exemplary performance and those that need assistance to overcome challenges in order to achieve exemplary performance.

(3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the Washington achievement index. The state board of education shall have ongoing collaboration with the educational opportunity gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps. Schools with exemplary performance in serving students receiving special education services must be recognized.

(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the Washington achievement index and the state system of differentiated support, assistance, and intervention to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

(5) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in RCW 28A.290.020 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and school districts but also as a tool for schools and school districts to report to the state legislature and the state board of education on how the state resources received are being used.

Sec. 12. RCW 28A.155.220 and 2015 c 217 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction must establish interagency agreements with the department of social and health services, the department of services for the blind, and any other state agency that provides high school transition services for special education students. Such interagency agreements shall not interfere with existing individualized education programs, nor override any individualized education program team's decision-making power. The purpose of the interagency agreements is to foster effective collaboration among the multiple agencies providing transition services for

individualized education program-eligible special education students from the beginning of transition planning, as soon as educationally and developmentally appropriate, through age twenty-one, or through high school graduation, whichever occurs first. Interagency agreements are also intended to streamline services and programs, promote efficiencies, and establish a uniform focus on improved outcomes related to self-sufficiency.

(2)(a) When educationally and developmentally appropriate, the interagency responsibilities and linkages with transition services under subsection (1) of this section must be addressed in a transition plan to a postsecondary setting in the individualized education program of a student with disabilities.

(b) Transition planning shall be based upon educationally and developmentally appropriate transition assessments that outline the student's individual needs, strengths, preferences, and interests. Transition assessments may include observations, interviews, inventories, situational assessments, formal and informal assessments, as well as academic assessments.

(c) The transition services that the transition plan must address include activities needed to assist the student in reaching postsecondary goals and courses of study to support postsecondary goals.

(d) Transition activities that the transition plan may address include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

(e) Beginning when a student reaches the age of sixteen and continuing until the student reaches the age of twenty-one, or through high school graduation, whichever occurs first, a representative from the division of vocational rehabilitation in the department of social and health services must attend individualized education program meetings to assist students with transition planning when requested by a member of a student's individualized education program team.

(f) When educationally and developmentally appropriate, a discussion must take place with the student and parents, and others as needed, to determine the postsecondary goals or postschool vision for the student. This discussion may be included as part of an annual individualized education program review, high school and beyond plan meeting, or any other meeting that includes parents, students, and educators. The postsecondary goals included in the transition plan shall be goals that are measurable and must be based on appropriate transition assessments related to training, education, employment, and independent living skills, when necessary. The goals must also be based on the student's needs, while considering the strengths, preferences, and interests of the student. During this discussion, students and parents must be provided with information about the Washington achieving a better life experience program, defined in RCW 43.330.460, including information on eligibility, benefits, and Washington achieving a better life experience program account creation.

~~((f))~~ (g) As the student gets older, changes in the transition plan may be noted in the annual update of the student's individualized education program.

~~((g))~~ (h) A student with disabilities who has a high school and beyond plan may use the plan to comply with the transition plan required under this subsection (2).

(3) To the extent that data is available through data-sharing agreements established by the education data center under RCW 43.41.400, the education data center must monitor the following outcomes for individualized education program-eligible special education students after high school graduation:

(a) The number of students who, within one year of high school graduation:

(i) Enter integrated employment paid at the greater of minimum wage or competitive wage for the type of employment, with access to related employment and health benefits; or

(ii) Enter a postsecondary education or training program focused on leading to integrated employment;

(b) The wages and number of hours worked per pay period;

(c) The impact of employment on any state and federal benefits for individuals with disabilities;

(d) Indicators of the types of settings in which students who previously received transition services primarily reside;

(e) Indicators of improved economic status and self-sufficiency;

(f) Data on those students for whom a postsecondary or integrated employment outcome does not occur within one year of high school graduation, including:

(i) Information on the reasons that the desired outcome has not occurred;

(ii) The number of months the student has not achieved the desired outcome; and

(iii) The efforts made to ensure the student achieves the desired outcome.

(4) To the extent that the data elements in subsection (3) of this section are available to the education data center through data-sharing agreements, the office of the superintendent of public instruction must prepare an annual report using existing resources and submit the report to the legislature.

NEW SECTION. Sec. 13. A new section is added to chapter 28A.155 RCW to read as follows:

(1) School districts are encouraged to participate in the establishment of, or continuation of existing, cooperative programs between or among school districts, or educational service districts and school districts, to provide special

education and related services to eligible students with disabilities.

(2) Prior to the 2020-21 school year and every five years thereafter, each special education cooperative must apply for approval from the office of the superintendent of public instruction.

NEW SECTION. Sec. 14. (1) The office of the superintendent of public instruction must contract with the William D. Ruckelshaus center or another neutral party to convene an advisory group to design a coordinated and responsive system for meeting the diverse needs of students with disabilities.

(2) The advisory group must:

(a) Review state and federal laws and state policies related to special education, including those related to least restrictive environment;

(b) Review research on the following topics:

(i) Improving achievement and postsecondary outcomes for students with disabilities;

(ii) Creating an inclusive educational environment;

(iii) Best practices to provide a continuum of services for students receiving special education services;

(iv) Effective implementation at the school district office, through the building principal, and using teacher teams;

(v) Best practices to train teachers and paraeducators on the use of inclusive educational practices; and

(vi) The costs of implementing and maintaining an inclusive education model compared to the current model;

(c) Establish a common language, including use of the following terms:

(i) Continuum of services;

(ii) Coteaching;

(iii) Strategic intervention;

(iv) General education provision of specially designed instruction; and

(v) Adult support models and plans;

(d) Review, discuss, and plan for the realities of implementing inclusive education practices;

(e) Develop an inclusive education implementation plan template to be used by local education agencies interested in applying for designation as a special education demonstration project under section 15 of this act. The template must include components of the application described in section 15(2) of this act and must specify that the inclusive education implementation plan must:

(i) Only be implemented in schools where the principal is in full support of inclusive education practices;

(ii) Create a building coalition to support implementation;

(iii) Provide staff with support and training;

(iv) Celebrate student and staff achievement; and

(v) Provide staff release time for planning and collaboration;

(f) Develop an inclusive education guidance document for local education agencies based on best practices learned from the special education demonstration projects designated under section 15 of this act;

(g) Recommend a technical assistance structure and a professional learning structure to support local education agencies in improving instructional practices and systems of meeting the diverse needs of students with disabilities; and

(h) Review the feedback from educators, students, and families gathered by the special education demonstration projects designated under section 15 of this act.

(3) The parties invited to participate in the advisory group must include:

(a) One representative each of the following groups at the office of the superintendent of public instruction:

(i) The special education department;

(ii) The learning and teaching department;

(iii) The bilingual education advisory committee;

(iv) The center for the improvement of student learning, established under RCW 28A.300.130; and

(v) The special education advisory council;

(b) A representative of the University of Washington's disabilities, opportunities, internetworking, and technology center;

(c) A representative of Central Washington University's special education technology center;

(d) A representative of the Washington professional educator standards board;

(e) A general education teacher and a special education teacher, both nominated by an association of educators;

(f) Three parents of students receiving special education services;

(g) Three individuals who represent organizations advocating for equity, access, and improving outcomes for students with disabilities, with one individual representing each of the following disability perspectives: Intellectual or developmental, mental health or physical health, and learning disability. The selected individuals must be either an individual with a disability or a parent of a student receiving, or who has received, special education services. At least one of the selected individuals must be familiar with research on inclusive education or improving outcomes for students with disabilities;

(h) A representative of the office of the education ombuds; and

(i) One or two representatives each from the special education demonstration projects designated under section 15 of this act.

(4) The members of the advisory group must select cochairs. One cochair must be an individual with a disability or a parent of a student receiving, or who has received, special education services and the other cochair must be an educator.

(5) By November 1, 2019, and by November 1st each year thereafter, and in compliance with RCW 43.01.036, the advisory group must coordinate with the office of the superintendent of public instruction to submit a report to the appropriate committees of the legislature. The report must summarize the advisory group's activities over the prior year and the progress of the special education demonstration projects designated under section 15 of this act. The report must also recommend any changes to state laws or policies necessary to support the improvement of instructional practices and systems to meet the diverse needs of students with disabilities, such as changes related to inclusive education practices, regional and school-level coordination, educator release time, school climate and culture, professional learning, use of multitiered systems of support, and blending resource streams.

(6) The advisory group must meet at least quarterly.

(7) This section expires August 1, 2023.

NEW SECTION. Sec. 15. (1) By September 1, 2019, the office of the superintendent of public instruction must develop, and broadly publicize, a process for local education agencies to apply to have one or more schools designated as a special education demonstration project.

(2) Local education agencies interested in having one or more schools designated as a special education demonstration project must submit an application to the office of the superintendent of public instruction by January 6, 2020. The application must be developed in collaboration with educators, parents of students with disabilities, and community partners. The local education agency must use the inclusive education implementation plan template developed by the advisory group described in section 14 of this act to:

(a) Define the scope of the special education demonstration project and describe why designation would support the school's ability to improve its instructional practices and systems to meet the diverse needs of students with disabilities;

(b) Enumerate specific, research-based, inclusive education practices to be carried out under the designation;

(c) Justify each request for waiver of state statutes or administrative rules as provided under section 16 of this act;

(d) Justify any requests for waiver of state statutes or administrative rules that are in addition to the waivers

authorized under section 16 of this act that are necessary to carry out the proposal;

(e) Identify additional training and supports that will be provided to staff at the local education agency;

(f) Include a written statement that the governing board and administrators are willing to exempt the local education agency from specifically identified local rules, as needed;

(g) Include a written statement that the governing board and local bargaining agents will modify those portions of their local agreements as applicable for the local education agency; and

(h) Include written statements of support from the governing board and administrators, the principal and staff, each local employee association affected by the special education demonstration project proposal, and the local parent organization.

(3)(a) The office of the superintendent of public instruction, in collaboration with its special education advisory council, must develop criteria for reviewing the applications and for evaluating the need for waivers of state statutes and administrative rules as provided under section 16 of this act.

(b) The office of the superintendent of public instruction must review the applications and select up to five local education agencies to designate as special education demonstration projects. The selected local education agencies must be diverse in geography and size. One of the selected local education agencies must have a school or program that removes students receiving special education services from the regular class for eighty percent or more of the school day.

(c) The office of the superintendent of public instruction must notify the applicants of its selection by February 21, 2020.

(4) The designation of the selected schools as special education demonstration projects begins in the 2020-21 school year and lasts for two school years.

(5) The schools selected as special education demonstration projects must:

(a) Execute the inclusive education implementation plan approved by the office of the superintendent of public instruction;

(b) Form collaborative learning teams of teachers with similar grade levels and content areas to help implement the special education demonstration project at the classroom level;

(c) Form an advisory committee to oversee the demonstration project, where the committee includes administrators, educators, parents of students with disabilities, and community partners;

(d) Gather feedback from educators, students, and families on the progress of the special education demonstration project toward meeting the diverse needs of students with disabilities;

(e) Participate in the advisory group created under section 14 of this act; and

(f) Report quarterly to the advisory group created under section 14 of this act and the office of the superintendent of public instruction on the activities and progress of the special education demonstration project in the prior year.

(6) This section expires August 1, 2023.

NEW SECTION. Sec. 16. (1)(a) The superintendent of public instruction and the state board of education, each within the scope of their statutory authority, may grant waivers of state statutes and administrative rules for special education demonstration projects designated under section 15 of this act, as follows:

(i) Waivers may be granted to permit the commingling of funds appropriated by the legislature on a categorical basis for such programs as special education, highly capable students, transitional bilingual instruction, and learning assistance; and

(ii) Waivers may be granted of other administrative rules that in the opinion of the superintendent of public instruction or the state board of education are necessary to be waived in order to implement the special education demonstration projects.

(b) Laws and rules related to the following topics may not be waived: Public health, safety, and civil rights, including protections for individuals with disabilities.

(2) At the request of a local education agency, the superintendent of public instruction may petition the United States department of education or other federal agencies to waive federal regulations necessary to implement the special education demonstration projects designated under section 15 of this act.

(3) Waivers may be granted under this section for a period not to exceed the duration of the special education demonstration projects designated under section 15 of this act.

(4) The superintendent of public instruction and the state board of education must provide an expedited review of requests for waivers for special education demonstration projects designated under section 15 of this act. Requests may be denied if the superintendent of public instruction or the state board of education conclude that the waiver:

(a) Is likely to result in a decrease in academic achievement;

(b) Would jeopardize the receipt of state or federal funds that a local education agency would otherwise be eligible to receive, unless the local education agency submits a written authorization for the waiver acknowledging that receipt of these funds may be jeopardized; or

(c) Would violate state or federal laws or rules that are not authorized to be waived.

(5) This section expires August 1, 2023.

NEW SECTION. Sec. 17. Sections 14 through 16 of this act are each added to chapter 28A.630 RCW.

NEW SECTION. Sec. 18. A new section is added to chapter 28A.155 RCW to read as follows:

The office of the superintendent of public instruction must establish a technical assistance program to provide resources and best practice guidance on inclusive education practices and improving outcomes for students with disabilities. The components of the technical assistance program must be informed by the advisory group created under section 14 of this act.

NEW SECTION. Sec. 19. Section 18 of this act takes effect September 1, 2021.

NEW SECTION. Sec. 20. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall identify meaningful indicators of progress toward eliminating the most significant barriers to success, and disparities in outcomes, for students with disabilities or special needs within ten years. The indicators must be quantifiable and based on data that are regularly and reliably collected statewide. For example, the indicators might compare the data for all students to the following data for students with an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973:

- (a) Educational opportunity gaps;
- (b) Time spent in a general education classroom;
- (c) Discipline rates and rates of restraint or isolation;
- (d) Use of medicaid-funded school-based services;
- (e) Training and curriculum; and
- (f) Postsecondary education and employment outcomes.

(2) Beginning September 1, 2020, and by September 1st every even-numbered year thereafter, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction shall report to the appropriate committees of the legislature on the state's progress toward eliminating the most significant barriers to success, and disparities in outcomes, for students with disabilities or special needs."

Correct the title.

Representatives Stokesbary, Irwin, Walsh and Steele spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Santos spoke against the adoption of the amendment to the committee striking amendment.

Division was demanded on the adoption of the amendment (677) to the committee striking amendment and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The result was 41 - YEAS; 56 - NAYS.

Amendment (677) to the committee striking amendment was not adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Dolan, McCaslin, Boehnke, Caldier, Santos and Stokesbary spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5091, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5091, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative Entenman.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5091, as amended by the House, having received the necessary constitutional majority, was declared passed.

With the consent of the House, all bills just acted upon were immediately transmitted to the Senate.

The Speaker assumed the chair.

SIGNED BY THE SPEAKER

The Speaker signed the following bills:

ENGROSSED SECOND SUBSTITUTE HOUSE
BILL NO. 1139
HOUSE BILL NO. 1385
SUBSTITUTE HOUSE BILL NO. 1436
HOUSE BILL NO. 1499
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1696
SECOND SUBSTITUTE HOUSE BILL NO. 1893
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2015
SUBSTITUTE HOUSE BILL NO. 2024
HOUSE BILL NO. 2035
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2097
SECOND SUBSTITUTE SENATE BILL NO. 5082
ENGROSSED SENATE BILL NO. 5274
SUBSTITUTE SENATE BILL NO. 5652
SECOND SUBSTITUTE SENATE BILL NO. 5672
SUBSTITUTE SENATE BILL NO. 5714
SENATE BILL NO. 5359
ENGROSSED SECOND SUBSTITUTE SENATE
BILL NO. 5444
ENGROSSED SENATE BILL NO. 5453
ENGROSSED SECOND SUBSTITUTE SENATE
BILL NO. 5497
SENATE BILL NO. 5505
SENATE BILL NO. 5506
SECOND SUBSTITUTE SENATE BILL NO. 5511
SENATE BILL NO. 5551
SUBSTITUTE SENATE BILL NO. 5560
ENGROSSED SUBSTITUTE SENATE BILL NO.
5600
SUBSTITUTE SENATE BILL NO. 5734

The Speaker called upon Representative Lovick to preside.

There being no objection, the House reverted to the fifth order of business.

REPORTS OF STANDING COMMITTEES

April 27, 2019

SSB 5362 Prime Sponsor, Committee on Transportation: Creating a deferred finding program for nonpayment of license fees and taxes for vehicle, vessel, and aircraft registrations. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke; Chambers; Chapman; Dent; Eslick; Goehner; Gregerson; Irwin; Kloba; Lovick; Mead; Orcutt; Paul; Pellicciotti; Ramos; Riccelli; Shewmake and Van Werven.

April 27, 2019

ESSB 5825 Prime Sponsor, Committee on Transportation: Addressing the tolling of

Interstate 405, state route number 167, and state route number 509. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature recognizes that the Puget Sound region is faced with growing traffic congestion and must improve mobility for people and goods by maximizing the effectiveness of the freeway system. Investments in the Interstate 405, state route number 167, and state route number 509 corridors are essential for providing benefits for the movement of vehicles and people. Further, the legislature recognizes that in 2015, the passage of the connecting Washington transportation revenue proposal assumed that tolling would be a component of projects on these corridors.

(2) The legislature recognizes that completion of state route number 167 in Pierce county and completion of state route number 509 in King county provide essential connections to the Port of Tacoma and the Port of Seattle and will help ensure people and goods move more reliably through the Puget Sound region. The completion of these corridors, known as the Gateway project, will play an essential role in enhancing the state's economic competitiveness, both nationally and globally.

(3) The legislature acknowledges that as one of the most congested freeway sections in the state, the combined Interstate 405 and state route number 167 corridor in King county serves as an ideal candidate for an express toll lanes network. The express toll lanes network provides a tool for managing the use of high occupancy vehicle lanes while generating funds to improve projects in the corridor.

(4) Therefore, it is the intent of this act to expedite the delivery of the Puget Sound Gateway facility, designate the Puget Sound Gateway project as an eligible toll facility, and authorize the imposition of tolls on the Puget Sound Gateway facility. It is further the intent of this act to direct the department of transportation to develop and operate an express toll lanes network on Interstate 405 from the city of Lynnwood on the north end to the intersection of state route number 167 and state route number 512 on the south end.

NEW SECTION. Sec. 2. (1) In order to provide funds necessary for the design, right-of-way, and construction of projects as allowed in sections 11 through 14 of this act, there shall be issued and sold upon the request of the department of transportation up to the following amounts of general obligation bonds of the state of Washington first payable from toll revenue and excise taxes on fuel and vehicle-related fees in accordance with section 5 of this act:

(a) One billion one hundred sixty million dollars for the Interstate 405 and state route number 167 express toll lanes; and

(b) Three hundred forty million dollars for the Puget Sound Gateway facility.

(2) For purposes of chapter . . . , Laws of 2019 (this act), "vehicle-related fees" means vehicle-related fees imposed under Title 46 RCW that constitute license fees for motor vehicles to be used for highway purposes.

NEW SECTION. Sec. 3. Upon the request of the department, the state finance committee shall supervise and provide for the issuance, sale, and retirement of bonds authorized by this act in accordance with chapter 39.42 RCW. Bonds authorized by this act shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 4. (1) The proceeds from the sale of bonds authorized by:

(a) Section 2(1)(a) of this act shall be deposited in the Interstate 405 and state route number 167 express toll lanes account created in section 12 of this act; and

(b) Section 2(1)(b) of this act shall be deposited in the Puget Sound Gateway facility account created in section 14 of this act.

(2) The bond proceeds shall be available only for the purposes enumerated in section 2, chapter . . . , Laws of 2019 (section 2 of this act), for the payment of bond anticipation notes or other interim financing, if any, capitalizing interest on the bonds, funding a debt service reserve fund, if any, and for the payment of bond issuance costs, including the costs of underwriting.

NEW SECTION. Sec. 5. Bonds issued under the authority of this section and sections 2, 6, and 7 of this act shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on the bonds shall be first payable in the manner provided in this section and sections 2, 6, and 7 of this act from toll revenue and then from proceeds of excise taxes on fuel and vehicle-related fees to the extent toll revenue is not available for that purpose. Toll revenue and the state excise taxes on fuel imposed by chapter 82.38 RCW and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this section and sections 2, 6, and 7 of this act, and the legislature agrees to continue to impose these toll charges on the Interstate 405 and state route number 167 express toll lanes, and on the Puget Sound Gateway facility, and on any other eligible toll facility designated by the legislature and on which the imposition of tolls is authorized by the legislature in respect of the bonds, and excise taxes on fuel and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all

bonds issued under the authority of this section and sections 2, 6, and 7 of this act.

NEW SECTION. Sec. 6. For bonds issued under the authority of this section and sections 2, 5, and 7 of this act, the state treasurer shall first withdraw toll revenue from the appropriate toll account for the facility for which the bonds are issued and sold, and, to the extent toll revenue is not available, excise taxes on fuel and vehicle-related fees and deposit in the toll facility bond retirement account, or a special subaccount in the account, such amounts, and at such times, as are required by the bond proceedings.

Any excise taxes on fuel and vehicle-related fees required for bond retirement or interest on the bonds authorized by this section and sections 2, 5, and 7 of this act shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on fuel and vehicle-related fees and which is, or may be, appropriated to the department for state highway purposes. Funds required shall never constitute a charge against any other allocations of fuel tax and vehicle-related fee revenues to the state, counties, cities, and towns unless the amount arising from excise taxes on fuel and vehicle-related fees distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the fuel taxes and vehicle-related fees that are distributable to the state, counties, cities, and towns shall be repaid from available toll revenue in the manner provided in the bond proceedings or, if toll revenue is not available for that purpose, from the first revenues from the excise taxes on fuel and vehicle-related fees distributed to the motor vehicle fund not required for bond retirement or interest on the bonds. Any excise taxes on fuel and vehicle-related fees required for bond retirement or interest on the bonds authorized by this section and sections 2, 5, and 7 of this act shall be reimbursed to the motor vehicle fund from toll revenue in the manner and with the priority specified in the bond proceedings.

NEW SECTION. Sec. 7. Bonds issued under the authority of sections 2, 5, and 6 of this act and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge excise taxes on fuel and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such excise taxes on fuel and vehicle-related fees.

Sec. 8. RCW 47.10.882 and 2011 c 377 s 3 are each amended to read as follows:

The toll facility bond retirement account is created in the state treasury for the purpose of payment of the principal of and interest and premium on bonds. Both principal of and interest on the bonds issued for the purposes of chapter 498, Laws of 2009 (~~and~~), chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act) shall be

payable from the toll facility bond retirement account. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal of and interest on the bonds. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings.

Sec. 9. RCW 47.10.887 and 2011 c 377 s 5 are each amended to read as follows:

The state finance committee may determine and include in any resolution authorizing the issuance of any bonds under chapter 498, Laws of 2009 (~~and~~), chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act), such terms, provisions, covenants, and conditions as it may deem appropriate in order to assist with the marketing and sale of the bonds, confer rights upon the owners of bonds, and safeguard rights of the owners of bonds including, among other things:

(1) Provisions regarding the maintenance and operation of eligible toll facilities;

(2) The pledges, uses, and priorities of application of toll revenue;

(3) Provisions that bonds shall be payable from and secured solely by toll revenue as provided by RCW 47.10.886, or shall be payable from and secured by both toll revenue and by a pledge of excise taxes on motor vehicle and special fuels and the full faith and credit of the state as provided in RCW 47.10.879 and 47.10.883 through 47.10.885;

(4) Provisions that bonds shall be payable from and secured by both toll revenue and by a pledge of excise taxes on fuel and vehicle-related fees and the full faith and credit of the state as provided in sections 2 and 5 through 7 of this act;

(5) In consultation with the department of transportation and the tolling authority, financial covenants requiring that the eligible toll facilities must produce specified coverage ratios of toll revenue to debt service on bonds;

~~((5))~~ (6) The purposes and conditions that must be satisfied prior to the issuance of any additional bonds that are to be payable from and secured by any toll revenue on an equal basis with previously issued and outstanding bonds payable from and secured by toll revenue;

~~((6))~~ (7) Provisions that bonds for which any toll revenue are pledged, or for which a pledge of any toll revenue may be reserved, may be structured on a senior, parity, subordinate, or special lien basis in relation to any other bonds for which toll revenue is pledged, with respect to toll revenue only; and

~~((7))~~ (8) Provisions regarding reserves, credit enhancement, liquidity facilities, and payment agreements with respect to bonds.

Notwithstanding the foregoing, covenants and conditions detailing the character of management, maintenance, and operation of eligible toll facilities, insurance for eligible toll facilities, financial management of toll revenue, and disposition of eligible toll facilities must first be approved by the department of transportation.

The owner of any bond may by mandamus or other appropriate proceeding require and compel performance of any duties imposed upon the tolling authority and the department of transportation and their respective officials, including any duties imposed upon or undertaken by them or by their respective officers, agents, and employees, in connection with the construction, maintenance, and operation of eligible toll facilities and in connection with the collection, deposit, investment, application, and disbursement of the proceeds of the bonds and toll revenue.

Sec. 10. RCW 47.10.888 and 2011 c 377 s 6 are each amended to read as follows:

(1) For the purposes of chapter 498, Laws of 2009 ~~((and))~~, chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act), "toll revenue" means all toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of transportation facilities in the state, including eligible toll facilities. However, for the purpose of any pledge of toll revenue to the payment of particular bonds issued under chapter 498, Laws of 2009 ~~((and))~~, chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act), "toll revenue" means and includes only such toll revenue or portion thereof that is pledged to the payment of those bonds in the resolution authorizing the issuance of such bonds. Toll revenue constitutes "fees and revenues derived from the ownership or operation of any undertaking, facility, or project" as that phrase is used in Article VIII, section 1(c)(1) of the state Constitution.

(2) For the purposes of chapter 498, Laws of 2009 ~~((and))~~, chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act), "tolling authority" has the same meaning as in RCW 47.56.810.

Sec. 11. RCW 47.56.880 and 2011 c 369 s 3 are each amended to read as follows:

(1) The imposition of tolls for express toll lanes on Interstate 405 between ~~((the junctions with))~~ Interstate 5 on the north end ~~((and NE 6th Street))~~ in the city of ~~((Bellevue))~~ Lynnwood and Interstate 5 on the south end in the city of Tukwila, and for state route number 167 between Interstate 405 on the north end and state route number 512 on the south end is authorized~~(s)~~. Interstate 405 ~~((is))~~ and state route number 167 are designated an eligible toll facility, and toll revenue generated in the corridor must only be expended on the Interstate 405 and state route number 167 projects as identified in each corridor's master plan and as allowed under RCW 47.56.820.

(2) Tolls for the express toll lanes must be set as follows:

(a) The schedule of toll rates must be set by the tolling authority pursuant to RCW 47.56.850. Toll rates may vary in amount by time of day, level of traffic congestion within the highway facility, or other criteria, as the tolling authority deems appropriate.

(b) In those locations with two express toll lanes in each direction, the toll rate must be the same in both lanes.

(c) Toll charges may not be assessed on transit buses and vanpools.

(d) The department shall establish performance standards for travel time, speed, and reliability for the express toll lanes project. The department must automatically adjust the toll rate within the schedule established by the tolling authority, using dynamic tolling, to ~~((ensure))~~ maintain the goal that average vehicle speeds in the lanes remain above forty-five miles per hour at least ninety percent of the time during peak hours.

(e) The tolling authority shall periodically review the toll rates against traffic performance of all lanes to determine if the toll rates are effectively maintaining travel time, speed, and reliability on the highway facilities.

(f)(i) Toll charges may not be assessed on carpools with two or more people in the vehicle on the portion of Interstate 405 between Bellevue and state route number 167 for at least the first year following the initial imposition of tolls on that portion of the express toll lanes, contingent upon the analysis described in (f)(ii) of this subsection.

(ii) The department must analyze the effect of (f)(i) of this subsection utilizing forecasting and modeling data and present the results of the analysis to the tolling authority. If the analysis indicates that the express toll lanes on the portion of Interstate 405 between Bellevue and state route number 167 will not cover the financial obligations outlined in section 12(4) of this act, then the restriction on toll charges in (f)(i) of this subsection will not be implemented and the department must provide the transportation committees of the legislature with a report, within thirty days, that provides options for not assessing toll charges on carpools with two or more people in the vehicle, which also meet the financial obligations outlined in section 12(4) of this act.

~~(3) ((The department may construct and operate express toll lanes on Interstate 405 between the city of Bellevue on the south end and Interstate 5 on the north end. Operation of the express toll lanes may not commence until the department has completed capacity improvements necessary to provide a two-lane system from NE 6th Street in the city of Bellevue to state route number 522 and the conversion of the existing high occupancy vehicle lane to an express toll lane between state route number 522 and the city of Lynnwood. Construction of the capacity improvements described in this subsection, including items that enable implementation of express toll lanes such as conduit and other underground features, must begin as soon as practicable. However, any contract term regarding tolling equipment, such as gantries, barriers, or cameras, for Interstate 405 may not take effect unless specific appropriation authority is provided in 2012 stating that funding is provided solely for tolling equipment on Interstate~~

405-)) The department shall work with local jurisdictions to minimize and monitor impacts to local streets and, after consultation with local jurisdictions, recommend mitigation measures to the legislature in those locations where it is appropriate.

(4) The department shall monitor the express toll lanes (~~project~~) and shall annually report to the transportation commission and the legislature on the impacts from the project on the following performance measures:

(a) Whether the express toll lanes maintain speeds of forty-five miles per hour at least ninety percent of the time during peak periods, and any alternate metric determined by the department in conjunction with the federal highway administration;

(b) Whether the average traffic speed changed in the general purpose lanes;

(c) Whether transit ridership changed;

(d) Whether the actual use of the express toll lanes is consistent with the projected use;

(e) Whether the express toll lanes generated sufficient revenue to pay for all (~~Interstate 405~~) express toll lane-related operating costs; and

(f) Whether travel times and volumes have increased or decreased on adjacent local streets and state highways(~~;~~ and

~~(g) Whether the actual gross revenues are consistent with projected gross revenues as identified in the fiscal note for Engrossed House Bill No. 1382 distributed by the office of financial management on March 15, 2011.~~

~~(5) If after two years of operation of the express toll lanes on Interstate 405 performance measures listed in subsection (4)(a) and (e) of this section are not being met, the express toll lanes project must be terminated as soon as practicable).~~

~~((6))~~ (5) The department, in consultation with the transportation commission, shall consider making operational changes necessary to fix any unintended consequences of implementing the express toll lanes (~~project~~).

~~((7))~~ (6) A violation of the lane restrictions applicable to the express toll lanes established under this section is a traffic infraction.

Sec. 12. RCW 47.56.884 and 2011 c 369 s 5 are each amended to read as follows:

(1) The Interstate 405 and state route number 167 express toll lanes (~~operations~~) account is created in the motor vehicle fund. (~~All revenues received by the department as toll charges collected from Interstate 405 express toll lane users must be deposited into the account~~)

(2) Deposits to the account must include:

(a) All proceeds of bonds authorized in section 2(1)(a) of this act and loans for the Interstate 405 and state route number 167 projects, including capitalized interest;

(b) All tolls and other revenues received from the operation of the Interstate 405 and state route number 167 express toll lanes facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for completing the Interstate 405 and state route number 167 express toll lanes facility; and

(e) All damages liquidated or otherwise, collected under any contract involving Interstate 405 or state route number 167 projects.

(3) Moneys in the account may be spent only after appropriation(~~(-)~~), consistent with RCW 47.56.820(~~;~~ expenditures from the account may be used for debt service, planning, administration, construction, maintenance, operation, repair, rebuilding, enforcement, and the expansion of express toll lanes on Interstate 405).

(4) The proceeds of the general obligation bonds authorized in section 2(1)(a) of this act shall be used to make progress toward completion of the Interstate 405 and state route number 167 master plans. It is the intent of the legislature to first use the bond proceeds for the following projects:

(a) Up to six hundred million dollars to design and construct capacity improvements on Interstate 405 between state route number 522 and state route number 527. This project would widen Interstate 405 through the state route number 522 interchange, build direct access ramps to the express toll lanes at state route number 522, build one new lane in each direction to be used as a second express toll lane, and build a partial direct access ramp at state route number 527 to the east, north, and south, to provide connections to the Canyon Park park and ride;

(b) Up to two hundred fifteen million dollars toward completion of the I-405/Renton to Bellevue - Corridor Widening project (M00900R);

(c) Up to three million dollars to update the state route number 167 master plan;

(d) Up to one hundred million dollars to construct both the northbound and southbound state route number 167 stage 6 extension project. This project would extend the express toll lanes south to the state route number 410 and state route number 512 interchange to help mitigate traffic congestion; and

(e) Up to twenty million dollars to design the Interstate 405/North 8th Street Direct Access Ramp project in the city of Renton. It is the intent of the legislature to provide construction funding for this project at a later date.

NEW SECTION. **Sec. 13.** (1) The Puget Sound Gateway facility is designated an eligible toll facility, tolls

are authorized to be imposed on the Puget Sound Gateway facility, and toll revenue generated must be expended only as allowed under RCW 47.56.820.

(2)(a) In setting toll rates for the Puget Sound Gateway facility, pursuant to RCW 47.56.850, the tolling authority shall set a variable schedule of toll rates to maintain travel time, speed, and reliability on the Puget Sound Gateway facility.

(b) The tolling authority may adjust toll rates to reflect inflation as measured by the consumer price index or as necessary for those costs that are eligible under RCW 47.56.820 and to meet the obligations of the tolling authority under RCW 47.56.850.

(3) For the purposes of this section and section 14 of this act, "Puget Sound Gateway facility" means the state route number 167 roadway between north Meridian Avenue in Puyallup and Interstate 5 in Fife, the state route number 509 spur between Interstate 5 in Fife and state route number 509 in Tacoma, and the state route number 509 roadway between south 188th Street and Interstate 5 in SeaTac.

(4) Prior to setting the schedule of toll rates on the portion of state route number 509 between South 188th Street and Interstate 5 in SeaTac, the department, in collaboration with the transportation commission, must analyze and present to the transportation commission at least one schedule of toll rates that exempts, discounts, or provides other toll relief for low-income drivers during all hours of operation on state route number 509 between South 188th Street and Interstate 5 in SeaTac. In analyzing the schedule of toll rates, the department shall consider implementing an exemption, discount, or other toll relief policy for drivers that reside in close proximity to the corridor.

NEW SECTION. Sec. 14. (1) A special account to be known as the Puget Sound Gateway facility account is created in the motor vehicle fund.

(2) Deposits to the account must include:

(a) All proceeds of bonds authorized in section 2(1)(b) of this act and loans for the Puget Sound Gateway project, including capitalized interest;

(b) All tolls and other revenues received from the operation of the Puget Sound Gateway facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for completing the Puget Sound Gateway project, including existing state route number 509 right-of-way in SeaTac and Des Moines; and

(e) All damages liquidated or otherwise, collected under any contract involving the Puget Sound Gateway project.

(3) Moneys in the account may be spent only after appropriation, consistent with RCW 47.56.820.

(4) The proceeds of the general obligation bonds authorized in section 2(1)(b) of this act shall be used to make progress toward completion of the Puget Sound Gateway facility. It is the intent of the legislature to use the bond proceeds to advance the Puget Sound Gateway facility in order to maximize net mobility benefits for both freight and the traveling public. It is the intent of the legislature for tolling to begin on stage one of the project as soon as practicable in order to leverage toll funds, use bond proceeds to advance one hundred twenty-nine million dollars of connecting Washington state appropriations by two biennia to the 2023-2025 biennium, and advance local and federal contributions. This will allow the department of transportation to deliver and open to the public stage two of the project in fiscal year 2028, three years earlier than originally planned, and to realize twenty million dollars in cost savings in connecting Washington state appropriations.

(5) It is also the intent of the legislature to use the bond proceeds for up to five million dollars to provide noise mitigation on state route number 509 between south 188th Street and Interstate 5.

(6) It is further the intent of the legislature to clarify how the tolling of state route number 167 and state route number 509 will be implemented by requiring the transportation commission and the department of transportation to consider naming the sections of each facility where all of the lanes are tolled as the state route number 167 express way and the state route number 509 express way respectively.

Sec. 15. RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, ~~((the Interstate 405 express toll lanes operations account,))~~ the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, ~~((the high occupancy toll lanes operations account,))~~ the hospital safety net assessment fund, the industrial insurance premium refund account, the Interstate 405 and state route

number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2

retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

(1) RCW 47.56.403 (High occupancy toll lane pilot project) and 2017 c 313 s 712, 2015 1st sp.s. c 10 s 705, 2013 c 306 s 709, 2011 c 367 s 709, & 2005 c 312 s 3; and

(2) RCW 47.66.090 (High occupancy toll lanes operations account) and 2005 c 312 s 4.

NEW SECTION. Sec. 17. Any residual balance of funds remaining in the high occupancy toll lanes operations account repealed by section 16 of this act on the effective date of this section, and any year-end accruals accounted for after the effective date of this section from the state route number 167 high occupancy toll lanes pilot project, shall be transferred to the Interstate 405 and state route number 167 express toll lanes account created in section 12 of this act.

NEW SECTION. Sec. 18. Sections 2 through 7 of this act are each added to chapter 47.10 RCW.

NEW SECTION. Sec. 19. Sections 13 and 14 of this act are each added to chapter 47.56 RCW and codified with the subchapter heading of "toll facilities created after July 1, 2008."

NEW SECTION. Sec. 20. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2019."

Correct the title.

Signed by Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Chambers; Chapman; Dent; Doglio; Gregerson; Kloba; Lovick; Ortiz-Self; Paul; Pellicciotti; Ramos; Riccelli and Shewmake.

MINORITY recommendation: Without recommendation. Signed by Representatives Walsh, Assistant Ranking Minority Member; Boehnke; Goehner and Mead.

MINORITY recommendation: Do not pass. Signed by Representatives Young, Assistant Ranking Minority Member; Eslick; Irwin; Orcutt and Van Werven.

April 27, 2019

ESSB 5993 Prime Sponsor, Committee on Ways & Means: Reforming the financial structure of the model toxics control program. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. It is the intent of the legislature that during the 2019-2021 biennium no transfers to the state general fund, education legacy trust account, or opportunities pathway account must be made from the state toxics control account, local toxics control account, environmental legacy stewardship account, model toxics control operating account, model toxics control capital account, or model toxics control stormwater account.

Part I

Sec. 101. RCW 82.21.010 and 1989 c 2 s 8 are each amended to read as follows:

(1) It is the intent of this chapter to impose a tax only once for each hazardous substance possessed in this state and to tax the first possession of all hazardous substances, including substances and products that the department of ecology determines to present a threat to human health or the environment. However, it is not intended to impose a tax on the first possession of small amounts of any hazardous substance (other than petroleum and pesticide products) that is first possessed by a retailer for the purpose of sale to ultimate consumers. This chapter is not intended to exempt any person from tax liability under any other law.

(2) It is the specific purpose of the model toxics control reform act (this act) to update the model toxics control program and its primary funding mechanism. These reforms are intended to achieve the financial stability, transparency, and long-term protection of revenues. Specifically, this reform act makes the following changes:

(a) Increases funding for programs and projects related to clean air, clean water, toxic cleanup, and prevention, with specific focus on stormwater pollution;

(b) Provides distinct and transparent financial separation of capital and operating budget funding under the model toxics control program;

(c) Improves the transparency and visibility of operating and capital project expenditures under the model toxics control program; and

(d) Eliminates the year-to-year volatility of hazardous substance tax revenues by moving to a volumetric rate for petroleum products.

Part II

Sec. 201. RCW 82.21.030 and 1989 c 2 s 10 are each amended to read as follows:

(1)(a) A tax is imposed on the privilege of possession of hazardous substances in this state. ~~Except as provided in (b) of this subsection, the rate of the tax ((shall be))~~ is seven-tenths of one percent multiplied by the wholesale value of the substance. ~~Moneys collected under this subsection (1)(a) must be deposited in the model toxics control capital account.~~

(b) Beginning July 1, 2019, the rate of the tax on petroleum products is one dollar and nine cents per barrel. The tax collected under this subsection (1)(b) on petroleum products must be deposited as follows, after first depositing the tax as provided in (c) of this subsection (1):

(i) Sixty percent to the model toxics control operating account created under section 202 of this act;

(ii) Twenty-five percent to the model toxics control capital account created under section 203 of this act; and

(iii) Fifteen percent to the model toxics control stormwater account created under section 204 of this act.

(c) Until the beginning of the ensuing biennium after the enactment of an additive transportation funding act, fifty million dollars per biennium to the motor vehicle fund to be used exclusively for transportation stormwater activities and projects. For purposes of this subsection, "additive transportation funding act" means an act in which the combined total of new revenues deposited into the motor vehicle fund and the multimodal transportation account exceed two billion dollars per biennium attributable solely to an increase in revenue from the enactment of the act.

(d) The department must compile a list of petroleum products that are not easily measured on a per barrel basis. Petroleum products identified on the list are subject to the rate under (a) of this subsection in lieu of the volumetric rate

under (b) of this subsection. The list will be made in a form and manner prescribed by the department and must be made available on the department's internet web site. In compiling the list, the department may accept technical assistance from persons that sell, market, or distribute petroleum products and consider any other resource the department finds useful in compiling the list.

~~(2) ((Moneys collected under this chapter shall be deposited in the toxics control accounts under RCW 70.105D.070.~~

~~(3))~~ Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

NEW SECTION. Sec. 202. A new section is added to chapter 70.105D RCW to read as follows:

(1) The model toxics control operating account is hereby created in the state treasury.

(2) Moneys in the model toxics control operating account must be used only to carry out the purposes of this chapter, including but not limited to the following:

(a) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(b) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(c) The hazardous waste clean-up program required under this chapter;

(d) State matching funds required under federal cleanup law;

(e) Financial assistance for local programs and plans, including local solid waste financial assistance, in accordance with chapters 70.76, 70.95, 70.95C, 70.95I, and 70.105 RCW;

(f) State government programs for the safe reduction, recycling, or disposal of paint and hazardous wastes from households, small businesses, and agriculture;

(g) Oil and hazardous materials spill prevention, preparedness, training, and response activities;

(h) Water and environmental health protection and monitoring programs;

(i) Programs authorized under chapter 70.146 RCW;

(j) A public participation program;

(k) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150;

(l) State agriculture and health programs for the safe use, reduction, recycling, or disposal of pesticides;

(m) Funding requirements to maintain receipt of federal funds under the federal solid waste disposal act (42 U.S.C. Sec. 6901 et seq.);

(n) Air quality programs and actions for reducing public exposure to toxic air pollution; and

(o) Petroleum-based plastic or expanded polystyrene foam debris clean-up activities in fresh or marine waters.

(3) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in model toxics control operating account may be spent only after appropriation by statute.

(4) One percent of the moneys collected under RCW 82.21.030 must be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation that are not expended at the close of any biennium revert to the model toxics control operating account.

(5) The department must adopt rules for grant or loan issuance and performance.

NEW SECTION. Sec. 203. A new section is added to chapter 70.105D RCW to read as follows:

(1) The model toxics control capital account is hereby created in the state treasury.

(2) In addition to the funds deposited into the model toxics control capital account required under RCW 82.21.030, the following moneys must be deposited into the model toxics control capital account:

(a) The costs of remedial actions recovered under this chapter, except as provided under RCW 70.105D.---(7) (section 2(7), chapter . . . (SHB 1290), Laws of 2019);

(b) Penalties collected or recovered under this chapter; and

(c) Any other money appropriated or transferred to the account by the legislature.

(3) Moneys in the model toxics control capital account must be used for the improvement, rehabilitation, remediation, and cleanup of toxic sites and other capital-related expenditures for programs and activities identified in subsection (4) of this section.

(4) Moneys in the model toxics control capital account may be used only for capital projects and activities that carry out the purposes of this chapter and for financial assistance to local governments or other persons to carry out

those projects or activities, including but not limited to the following, generally in descending order of priority:

(a) Remedial actions, including the following generally in descending order of priority:

(i) Extended grant agreements entered into under subsection (5)(a) of this section;

(ii) Grants or loans to local governments for remedial actions, including planning for adaptive reuse of properties as provided for under subsection (5)(d) of this section. The department must prioritize funding of remedial actions at:

(A) Facilities on the department's hazardous sites list with a high hazard ranking for which there is an approved remedial action work plan or an equivalent document under federal cleanup law;

(B) Brownfield properties within a redevelopment opportunity zone if the local government is a prospective purchaser of the property and there is a department-approved remedial action work plan or equivalent document under the federal cleanup law;

(iii) Department-conducted remedial actions;

(iv) Grants to persons intending to remediate contaminated real property for development of affordable housing;

(v) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with clean-up standards under RCW 70.105D.030(2)(e) if:

(A) The amount and terms of the funding are established under a settlement agreement under RCW 70.105D.040(4); and

(B) The director has found that the funding will achieve both a substantially more expeditious or enhanced cleanup than would otherwise occur, and the prevention or mitigation of unfair economic hardship;

(vi) Public funding to assist prospective purchasers to pay for the costs of remedial action in compliance with clean-up standards under RCW 70.105D.030(2)(e) if:

(A) The facility is located within a redevelopment opportunity zone designated under RCW 70.105D.150;

(B) The amount and terms of the funding are established under a settlement agreement under RCW 70.105D.040(5); and

(C) The director has found the funding will achieve a substantially more expeditious or enhanced cleanup than would otherwise occur, provide a public benefit in addition to cleanup commensurate with the scope of the public funding; and meet any additional criteria established in rule by the department; and

(vii) To expedite multiparty clean-up efforts, purchase of remedial action cost-cap insurance;

(b) Grants, or loans, or contracts to local governments for solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, 70.95G, 70.95M, and 70.105

RCW. Funds must be allocated consistent with priorities and matching requirements in the respective chapters;

(c) Toxic air pollutant reduction programs, including grants or loans to local governments for woodstoves and diesel;

(d) Grants, loans, or contracts to local governments for hazardous waste plans and programs under chapters 70.76 and 70.105 RCW, including chemical action plan implementation. Funds must be allocated consistent with priorities and matching requirements in the respective chapters; and

(e) Petroleum-based plastic or expanded polystyrene foam debris clean-up activities in fresh or marine waters.

(5) The department may establish and administer a program to provide grants and loans to local governments for remedial actions, including planning for adaptive reuse of contaminated properties. The department may not award a grant or loan for a remedial action unless the local government has obtained all of the required permits for the action within one year of the effective date of the enacted budget. To expedite cleanups throughout the state, the department may use the following strategies when providing grants to local governments under this subsection:

(a) Enter into an extended grant agreement with a local government conducting remedial actions at a facility where those actions extend over multiple biennia and the total eligible cost of those actions exceeds twenty million dollars. The agreement is subject to the following limitations:

(i) The initial duration of such an agreement may not exceed ten years. The department may extend the duration of such an agreement upon finding substantial progress has been made on remedial actions at the facility;

(ii) Extended grant agreements may not exceed fifty percent of the total eligible remedial action costs at the facility; and

(iii) The department may not allocate future funding to an extended grant agreement unless the local government has demonstrated to the department that funds awarded under the agreement during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds;

(b) Enter into a grant agreement with a local government conducting a remedial action that provides for periodic reimbursement of remedial action costs as they are incurred as established in the agreement;

(c) Enter into a grant agreement with a local government prior to it acquiring a property or obtaining necessary access to conduct remedial actions, provided the agreement is conditioned upon the local government acquiring the property or obtaining the access in accordance with a schedule specified in the agreement;

(d) Provide integrated planning grants to local governments to fund studies necessary to facilitate remedial actions at brownfield properties and adaptive reuse of properties following remediation. Eligible activities include,

but are not limited to: Environmental site assessments; remedial investigations; health assessments; feasibility studies; site planning; community involvement; land use and regulatory analyses; building and infrastructure assessments; economic and fiscal analyses; and any environmental analyses under chapter 43.21C RCW;

(e) Provide grants to local governments for remedial actions related to area-wide groundwater contamination. To receive the funding, the local government does not need to be a potentially liable person or be required to seek reimbursement of grant funds from a potentially liable person;

(f) The director may alter grant matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(i) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(ii) Funding would create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or

(iii) Funding would create an opportunity for acquisition and redevelopment of brownfield property under RCW 70.105D.040(5) that would not otherwise occur; and

(g) When pending grant applications under subsection (4)(d) and (e) of this section exceed the amount of funds available, designated redevelopment opportunity zones must receive priority for distribution of available funds.

(6) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in model toxics control capital account may be spent only after appropriation by statute.

NEW SECTION. Sec. 204. A new section is added to chapter 70.105D RCW to read as follows:

(1) The model toxics control stormwater account is hereby created in the state treasury.

(2) Moneys in the model toxics control stormwater account must be used for operating and capital programs, activities, and projects identified in subsection (3) of this section directly relating to stormwater pollution control.

(3) Moneys in the model toxics control stormwater account must be used only to carry out the operating and capital programs, activities, and projects directly relating to stormwater activities under sections 202 and 203 of this act, including but not limited to the following:

(a) Stormwater pollution control projects and activities that protect or preserve existing remedial actions or prevent hazardous clean-up sites;

(b) Stormwater financial assistance to local governments that assist in compliance to the purposes of this chapter.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the model toxics control stormwater account may be spent only after appropriation by statute.

Part III

NEW SECTION. **Sec. 301.** (1) The office of financial management and the legislative evaluation and accountability program committee must identify changes to existing budgeting and reporting systems, including enterprise, internal, and public-facing systems, that will improve access to and understanding of relevant model toxics control act account-related budget information available at the time governor-recommended and legislative budgets are released. In carrying out this work, the office of financial management and the legislative evaluation and accountability program committee must consult with legislative fiscal staff.

(2) The office of financial management and the legislative evaluation and accountability program committee must identify proposed improvements and, as appropriate, necessary funding and legislative changes to the governor and legislature by September 1, 2020. To the extent possible, the office of financial management and the legislative evaluation and accountability program committee may implement low and no-cost changes during the 2019-2021 biennium.

(3) This section expires June 30, 2021.

Part IV

Sec. 401. RCW 70.105D.030 and 2013 2nd sp.s. c 1 s 6 are each amended to read as follows:

(1) The department may exercise the following powers in addition to any other powers granted by law:

(a) Investigate, provide for investigating, or require potentially liable persons to investigate any releases or threatened releases of hazardous substances, including but not limited to inspecting, sampling, or testing to determine the nature or extent of any release or threatened release. If there is a reasonable basis to believe that a release or threatened release of a hazardous substance may exist, the department's authorized employees, agents, or contractors may enter upon any property and conduct investigations. The department shall give reasonable notice before entering property unless an emergency prevents such notice. The department may by subpoena require the attendance or testimony of witnesses and the production of documents or other information that the department deems necessary;

(b) Conduct, provide for conducting, or require potentially liable persons to conduct remedial actions (including investigations under (a) of this subsection) to remedy releases or threatened releases of hazardous substances. In carrying out such powers, the department's authorized employees, agents, or contractors may enter upon property. The department ~~((shall))~~ **must** give reasonable

notice before entering property unless an emergency prevents such notice. In conducting, providing for, or requiring remedial action, the department ~~((shall))~~ **must** give preference to permanent solutions to the maximum extent practicable and ~~((shall))~~ **must** provide for or require adequate monitoring to ensure the effectiveness of the remedial action;

(c) Indemnify contractors retained by the department for carrying out investigations and remedial actions, but not for any contractor's reckless or willful misconduct;

(d) Carry out all state programs authorized under the federal cleanup law and the federal resource, conservation, and recovery act, 42 U.S.C. Sec. 6901 et seq., as amended;

(e) Classify substances as hazardous substances for purposes of RCW 70.105D.020 and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1);

(f) Issue orders or enter into consent decrees or agreed orders that include, or issue written opinions under (i) of this subsection that may be conditioned upon, environmental covenants where necessary to protect human health and the environment from a release or threatened release of a hazardous substance from a facility. Prior to establishing an environmental covenant under this subsection, the department ~~((shall))~~ **must** consult with and seek comment from a city or county department with land use planning authority for real property subject to the environmental covenant;

(g) Enforce the application of permanent and effective institutional controls that are necessary for a remedial action to be protective of human health and the environment and the notification requirements established in RCW 70.105D.110, and impose penalties for violations of that section consistent with RCW 70.105D.050;

(h) Require holders to conduct remedial actions necessary to abate an imminent or substantial endangerment pursuant to RCW 70.105D.020(22)(b)(ii)(C);

(i) Provide informal advice and assistance to persons regarding the administrative and technical requirements of this chapter. This may include site-specific advice to persons who are conducting or otherwise interested in independent remedial actions. Any such advice or assistance ~~((shall be))~~ **is** advisory only, and ~~((shall))~~ **is not ((be))** binding on the department. As a part of providing this advice and assistance for independent remedial actions, the department may prepare written opinions regarding whether the independent remedial actions or proposals for those actions meet the substantive requirements of this chapter or whether the department believes further remedial action is necessary at the facility. Nothing in this chapter may be construed to preclude the department from issuing a written opinion on whether further remedial action is necessary at any portion of the real property located within a facility, even if further remedial action is still necessary elsewhere at the same facility. Such a written opinion on a portion of a facility must also provide an opinion on the status of the facility as a whole. The department may collect, from persons requesting advice and assistance, the costs incurred by the department

in providing such advice and assistance; however, the department ~~((shall))~~ must, where appropriate, waive collection of costs in order to provide an appropriate level of technical assistance in support of public participation. The state, the department, and officers and employees of the state are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing, or failing to provide, informal advice and assistance. The department must track the number of requests for reviews of planned or completed independent remedial actions and establish performance measures to track how quickly the department is able to respond to those requests. By November 1, 2015, the department must submit to the governor and the appropriate legislative fiscal and policy committees a report on achieving the performance measures and provide recommendations for improving performance, including staffing needs;

(j) In fulfilling the objectives of this chapter, the department ~~((shall))~~ must allocate staffing and financial assistance in a manner that considers both the reduction of human and environmental risks and the land reuse potential and planning for the facilities to be cleaned up. This does not preclude the department from allocating resources to a facility based solely on human or environmental risks;

(k) Establish model remedies for common categories of facilities, types of hazardous substances, types of media, or geographic areas to streamline and accelerate the selection of remedies for routine types of cleanups at facilities;

(i) When establishing a model remedy, the department ~~((shall))~~ must:

(A) Identify the requirements for characterizing a facility to select a model remedy, the applicability of the model remedy for use at a facility, and monitoring requirements;

(B) Describe how the model remedy meets clean-up standards and the requirements for selecting a remedy established by the department under this chapter; and

(C) Provide public notice and an opportunity to comment on the proposed model remedy and the conditions under which it may be used at a facility;

(ii) When developing model remedies, the department ~~((shall))~~ must solicit and consider proposals from qualified persons. The proposals must, in addition to describing the model remedy, provide the information required under (k)(i)(A) and (B) of this subsection;

(iii) If a facility meets the requirements for use of a model remedy, an analysis of the feasibility of alternative remedies is not required under this chapter. For department-conducted and department-supervised remedial actions, the department must provide public notice and consider public comments on the proposed use of a model remedy at a facility. The department may waive collection of its costs for providing a written opinion under (i) of this subsection on a cleanup that qualifies for and appropriately uses a model remedy; and

(l) Take any other actions necessary to carry out the provisions of this chapter, including the power to adopt rules under chapter 34.05 RCW.

(2) The department ~~((shall))~~ must immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. The department ~~((shall))~~ must adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) public notice of the development of investigative plans or remedial plans for releases or threatened releases and (ii) concurrent public notice of all compliance orders, agreed orders, enforcement orders, or notices of violation;

(b) Establish a hazard ranking system for hazardous waste sites;

(c) Provide for requiring the reporting by an owner or operator of releases of hazardous substances to the environment that may be a threat to human health or the environment within ninety days of discovery, including such exemptions from reporting as the department deems appropriate, however this requirement ~~((shall))~~ may not modify any existing requirements provided for under other laws;

(d) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives notice or otherwise receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site;

(e) Publish and periodically update minimum clean-up standards for remedial actions at least as stringent as the clean-up standards under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at least as stringent as all applicable state and federal laws, including health-based standards under state and federal law; and

(f) Apply industrial clean-up standards at industrial properties. Rules adopted under this subsection ~~((shall))~~ must ensure that industrial properties cleaned up to industrial standards cannot be converted to nonindustrial uses without approval from the department. The department may require that a property cleaned up to industrial standards is cleaned up to a more stringent applicable standard as a condition of conversion to a nonindustrial use. Industrial clean-up standards may not be applied to industrial properties where hazardous substances remaining at the property after remedial action pose a threat to human health or the environment in adjacent nonindustrial areas.

(3) To achieve and protect the state's long-term ecological health, the department ~~((shall))~~ must plan to clean up hazardous waste sites and prevent the creation of future hazards due to improper disposal of toxic wastes at a pace that matches the estimated cash resources in the ~~((state and local toxics control accounts and the environmental legacy stewardship account created in RCW 70.105D.170))~~ model toxics control capital account. Estimated cash resources must consider the annual cash flow requirements of major

projects that receive appropriations expected to cross multiple biennia. ~~((To effectively monitor toxic accounts expenditures, the department shall develop a comprehensive ten-year financing report that identifies long-term remedial action project costs, tracks expenses, and projects future needs.~~

~~(4) By November 1, 2016, the department must submit to the governor and the appropriate legislative committees a report on the status of developing model remedies and their use under this chapter. The report must include: The number and types of model remedies identified by the department under subsection (1)(k) of this section; the number and types of model remedy proposals prepared by qualified private sector engineers, consultants, or contractors that were accepted or rejected under subsection (1)(k) of this section and the reasons for rejection; and the success of model remedies in accelerating the cleanup as measured by the number of jobs created by the cleanup, where this information is available to the department, acres of land restored, and the number and types of hazardous waste sites successfully remediated using model remedies.~~

~~(5))~~ (4) Before September 20th of each even-numbered year, the department ~~((shall))~~ must:

(a) Develop a comprehensive ten-year financing report in coordination with all local governments with clean-up responsibilities that identifies the projected biennial hazardous waste site remedial action needs that are eligible for funding from the ~~((state and local toxics control account and the environmental legacy stewardship account))~~ model toxics control capital account;

(b) Work with local governments to develop working capital reserves to be incorporated in the ten-year financing report;

(c) Identify the projected remedial action needs for orphaned, abandoned, and other clean-up sites that are eligible for funding from the ~~((state toxics control account))~~ model toxics control capital account;

(d) Project the remedial action need, cost, revenue, and any recommended working capital reserve estimate to the next biennium's long-term remedial action needs from ~~((both the local and state toxics control account and the environmental legacy stewardship account))~~ model toxics control capital account, and submit this information to the appropriate standing fiscal and environmental committees of the senate and house of representatives. This submittal must also include a ranked list of such remedial action projects for ~~((both))~~ the model toxics control capital account(s). The submittal must also identify separate budget estimates for large, multibiennia clean-up projects that exceed ten million dollars. The department ~~((shall))~~ must prepare its ten-year capital budget plan that is submitted to the office of financial management to reflect the separate budget estimates for these large clean-up projects and include information on the anticipated private and public funding obligations for completion of the relevant projects.

~~((6))~~ (5) By December 1st of each odd-numbered year, the department must provide the legislature and the public a report of the department's activities supported by

appropriations from the ~~((state and local toxics control accounts and the environmental legacy stewardship))~~ model toxics control operating, capital, and stormwater accounts. The report must be prepared and displayed in a manner that allows the legislature and the public to easily determine the statewide and local progress made in cleaning up hazardous waste sites under this chapter. The report must include, at a minimum:

(a) The name, location, hazardous waste ranking, and a short description of each site on the hazardous sites list, and the date the site was placed on the hazardous waste sites list; and

(b) For sites where there are state contracts, grants, loans, or direct investments by the state:

(i) The amount of money from the ~~((state and local toxics control accounts and the environmental legacy stewardship account))~~ model toxics control capital account used to conduct remedial actions at the site and the amount of that money recovered from potentially liable persons;

(ii) The actual or estimated start and end dates and the actual or estimated expenditures of funds authorized under this chapter for the following project phases:

(A) Emergency or interim actions, if needed;

(B) Remedial investigation;

(C) Feasibility study and selection of a remedy;

(D) Engineering design and construction of the selected remedy;

(E) Operation and maintenance or monitoring of the constructed remedy; and

(F) The final completion date.

~~((7))~~ (6) The department ~~((shall))~~ must establish a program to identify potential hazardous waste sites and to encourage persons to provide information about hazardous waste sites.

~~((8))~~ (7) For all facilities where an environmental covenant has been required under subsection (1)(f) of this section, including all facilities where the department has required an environmental covenant under an order, agreed order, or consent decree, or as a condition of a written opinion issued under the authority of subsection (1)(i) of this section, the department ~~((shall))~~ must periodically review the environmental covenant for effectiveness. ~~((Except as otherwise provided in (c) of this subsection,))~~ The department ~~((shall))~~ must conduct a review at least once every five years after an environmental covenant is recorded.

(a) The review ~~((shall))~~ must consist of, at a minimum:

(i) A review of the title of the real property subject to the environmental covenant to determine whether the environmental covenant was properly recorded and, if applicable, amended or terminated;

(ii) A physical inspection of the real property subject to the environmental covenant to determine compliance with

the environmental covenant, including whether any development or redevelopment of the real property has violated the terms of the environmental covenant; and

(iii) A review of the effectiveness of the environmental covenant in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances. This ~~((shall))~~ **must** include a review of available monitoring data.

(b) If an environmental covenant has been amended or terminated without proper authority, or if the terms of an environmental covenant have been violated, or if the environmental covenant is no longer effective in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances, then the department ~~((shall))~~ **must** take any and all appropriate actions necessary to ensure compliance with the environmental covenant and the policies and requirements of this chapter.

~~((c)) For facilities where an environmental covenant required by the department under subsection (1)(f) of this section was required before July 1, 2007, the department shall:~~

~~(i) Enter all required information about the environmental covenant into the registry established under RCW 64.70.120 by June 30, 2008;~~

~~(ii) For those facilities where more than five years has elapsed since the environmental covenant was required and the department has yet to conduct a review, conduct an initial review according to the following schedule:~~

~~(A) By December 30, 2008, fifty facilities;~~

~~(B) By June 30, 2009, fifty additional facilities; and~~

~~(C) By June 30, 2010, the remainder of the facilities;~~

~~(iii) Once this initial review has been completed, conduct subsequent reviews at least once every five years.)~~

Sec. 402. RCW 70.105D.050 and 2013 2nd sp.s. c 1 s 8 are each amended to read as follows:

(1) With respect to any release, or threatened release, for which the department does not conduct or contract for conducting remedial action and for which the department believes remedial action is in the public interest, the director ~~((shall))~~ **must** issue orders or agreed orders requiring potentially liable persons to provide the remedial action. Any liable person, or prospective purchaser who has entered into an agreed order under RCW 70.105D.040(6), who refuses, without sufficient cause, to comply with an order or agreed order of the director is liable in an action brought by the attorney general for:

(a) Up to three times the amount of any costs incurred by the state as a result of the party's refusal to comply; and

(b) A civil penalty of up to twenty-five thousand dollars for each day the party refuses to comply.

The treble damages and civil penalty under this subsection apply to all recovery actions filed on or after March 1, 1989.

(2) Any person who incurs costs complying with an order issued under subsection (1) of this section may petition the department for reimbursement of those costs. If the department refuses to grant reimbursement, the person may within thirty days thereafter file suit and recover costs by proving that he or she was not a liable person under RCW 70.105D.040 and that the costs incurred were reasonable.

(3) The attorney general ~~((shall))~~ **must** seek, by filing an action if necessary, to recover the amounts spent by the department for investigative and remedial actions and orders, and agreed orders, including amounts spent prior to March 1, 1989.

(4) The attorney general may bring an action to secure such relief as is necessary to protect human health and the environment under this chapter.

(5)(a) Any person may commence a civil action to compel the department to perform any nondiscretionary duty under this chapter. At least thirty days before commencing the action, the person must give notice of intent to sue, unless a substantial endangerment exists. The court may award attorneys' fees and other costs to the prevailing party in the action.

(b) Civil actions under this section and RCW 70.105D.060 may be brought in the superior court of Thurston county or of the county in which the release or threatened release exists.

(6) Any person who fails to provide notification of releases consistent with RCW 70.105D.110 or who submits false information is liable in an action brought by the attorney general for a civil penalty of up to five thousand dollars per day for each day the party refuses to comply.

(7) Any person who owns real property or lender holding a mortgage on real property that is subject to a lien filed under RCW 70.105D.055 may petition the department to have the lien removed or the amount of the lien reduced. If, after consideration of the petition and the information supporting the petition, the department decides to deny the request, the person may, within ninety days after receipt of the department's denial, file suit for removal or reduction of the lien. The person is entitled to removal of a lien filed under RCW 70.105D.055(2)(a) if they can prove by a preponderance of the evidence that the person is not a liable party under RCW 70.105D.040. The person is entitled to a reduction of the amount of the lien if they can prove by a preponderance of the evidence:

(a) For liens filed under RCW 70.105D.055(2)(a), the amount of the lien exceeds the remedial action costs the department incurred related to cleanup of the real property; and

(b) For liens filed under RCW 70.105D.055(2)(c), the amount of the lien exceeds the remedial action costs the department incurred related to cleanup of the real property or exceeds the increase of the fair market value of the real property solely attributable to the remedial action conducted by the department.

(8) The expenditure of moneys under the ~~((state and local toxics control))~~ model toxics control operating, capital, and stormwater accounts created in ~~((RCW 70.105D.170 [70.105D.070] and the environmental legacy stewardship account created in RCW 70.105D.170))~~ sections 202 through 204 of this act does not alter the liability of any person under this chapter, or the authority of the department under this chapter, including the authority to recover those moneys.

Sec. 403. RCW 70.75A.060 and 2018 c 286 s 7 are each amended to read as follows:

A manufacturer of class B firefighting foam in violation of RCW 70.75A.020 or 70.75A.040 or a person in violation of RCW 70.75A.010 or 70.75A.030 is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers, local governments, or persons that are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the ~~((state))~~ model toxics control operating account created in ~~((RCW 70.105D.070))~~ section 202 of this act.

Sec. 404. RCW 70.76.100 and 2007 c 65 s 11 are each amended to read as follows:

(1) Enforcement of this chapter must rely on notification and information exchange between the department and manufacturers. The department ~~((shall))~~ must achieve compliance with this chapter using the following enforcement sequence:

(a) Before the effective date of the product prohibition in RCW 70.76.020 or 70.76.030, the department ~~((shall))~~ must prepare and distribute information to in-state manufacturers and out-of-state manufacturers, to the maximum extent practicable, to assist them in identifying products prohibited for manufacture, sale, or distribution under this chapter.

(b) The department may request a certificate of compliance from a manufacturer. A certificate of compliance attests that a manufacturer's product or products meets the requirements of this chapter.

(c) The department may issue a warning letter to a manufacturer that produces, sells, or distributes prohibited products in violation of this chapter. The department ~~((shall))~~ must offer information or other appropriate assistance to the manufacturer in complying with this chapter. If, after one year, compliance is not achieved, penalties may be assessed under subsection (3) of this section.

(2) A manufacturer that knowingly produces, sells, or distributes a product prohibited from manufacture, sale, or distribution in this state under this chapter ~~((shall))~~ must recall the product and reimburse the retailer or any other purchaser for the product and any applicable shipping and handling for returning the products.

(3) A manufacturer of products containing PBDEs in violation of this chapter is subject to a civil penalty not to exceed one thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed five thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the ~~((state))~~ model toxics control operating account created in ~~((RCW 70.105D.070))~~ section 202 of this act.

Sec. 405. RCW 70.95M.080 and 2003 c 260 s 9 are each amended to read as follows:

A violation of this chapter is punishable by a civil penalty not to exceed one thousand dollars for each violation in the case of a first violation. Repeat violators are liable for a civil penalty not to exceed five thousand dollars for each repeat violation. Penalties collected under this section must be deposited in the ~~((state))~~ model toxics control operating account created in ~~((RCW 70.105D.070))~~ section 202 of this act.

Sec. 406. RCW 70.95M.120 and 2003 c 260 s 11 are each amended to read as follows:

Any fiscal impact on the department or the department of health that results from the implementation of this chapter must be paid for out of funds that are appropriated by the legislature from the ~~((state))~~ model toxics control operating account for the implementation of the department's persistent bioaccumulative toxic chemical strategy.

Sec. 407. RCW 70.240.050 and 2016 c 176 s 4 are each amended to read as follows:

(1) A manufacturer of products that are restricted under this chapter must notify persons that sell the manufacturer's products in this state about the provisions of this chapter no less than ninety days prior to the effective date of the restrictions.

(2) A manufacturer that produces, sells, or distributes a product prohibited from manufacture, sale, or distribution in this state under this chapter ~~((shall))~~ must recall the product and reimburse the retailer or any other purchaser for the product.

(3) A manufacturer of products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the ~~((state))~~ model toxics control operating account created in ~~((RCW 70.105D.070))~~ section 202 of this act.

(4) Retailers who unknowingly sell products that are restricted from sale under this chapter are not liable under this chapter.

(5) The sale or purchase of any previously owned products containing a chemical restricted under this chapter made in casual or isolated sales as defined in RCW 82.04.040, or by a nonprofit organization, is exempt from this chapter.

Sec. 408. RCW 70.270.050 and 2009 c 243 s 5 are each amended to read as follows:

(1) An initial violation of RCW 70.270.030(1) is punishable by a civil penalty not to exceed five hundred dollars. Subsequent violations of RCW 70.270.030(1) are punishable by civil penalties not to exceed one thousand dollars for each violation.

(2) Penalties collected under this section must be deposited in the ~~((state))~~ model toxics control operating account created in ~~((RCW 70.105D.070))~~ section 202 of this act.

Sec. 409. RCW 70.285.090 and 2010 c 147 s 9 are each amended to read as follows:

(1) The department ~~((shall))~~ must enforce this chapter. The department may periodically purchase and test brake friction material sold or offered for sale in Washington state to verify that the material complies with this chapter.

(2) Enforcement of this chapter by the department must rely on notification and information exchange between the department and manufacturers, distributors, and retailers. The department ~~((shall))~~ must issue one warning letter by certified mail to a manufacturer, distributor, or retailer that sells or offers to sell brake friction material in violation of this chapter, and offer information or other appropriate assistance regarding compliance with this chapter. Once a warning letter has been issued to a distributor or retailer for violations under subsections (3) and (5) of this section, the department need not provide warning letters for subsequent violations by that distributor or retailer. For the purposes of subsection (6) of this section, a warning letter serves as notice of the violation. If compliance is not achieved, the department may assess penalties under this section.

(3) A brake friction material distributor or retailer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation. Brake friction material distributors or retailers that sell brake friction material that is packaged consistent with RCW 70.285.080(2)(b) are not in violation of this chapter. However, if the department conclusively proves that the brake friction material distributor or retailer was aware that the brake friction material being sold violates RCW 70.285.030 or 70.285.050, the brake friction material distributor or retailer is subject to civil penalties according to this section.

(4) A brake friction material manufacturer that knowingly violates this chapter ~~((shall))~~ must recall the brake friction material and reimburse the brake friction distributor, retailer, or any other purchaser for the material and any applicable shipping and handling charges for returning the material. A brake friction material

manufacturer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation.

(5) A motor vehicle distributor or retailer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation. A motor vehicle distributor or retailer is not in violation of this chapter for selling a vehicle that was previously sold at retail and that contains brake friction material failing to meet the requirements of this chapter. However, if the department conclusively proves that the motor vehicle distributor or retailer installed brake friction material that violates RCW 70.285.030, 70.285.050, or 70.285.080(2)(b) on the vehicle being sold and was aware that the brake friction material violates RCW 70.285.030, 70.285.050, or 70.285.080(2)(b), the motor vehicle distributor or retailer is subject to civil penalties under this section.

(6) A motor vehicle manufacturer that violates this chapter must notify the registered owner of the vehicle within six months of knowledge of the violation and must replace at no cost to the owner the noncompliant brake friction material with brake friction material that complies with this chapter. A motor vehicle manufacturer that fails to provide the required notification to registered owners of the affected vehicles within six months of knowledge of the violation is subject to a civil penalty not to exceed one hundred thousand dollars. A motor vehicle manufacturer that fails to provide the required notification to registered owners of the affected vehicles after twelve months of knowledge of the violation is subject to a civil penalty not to exceed ten thousand dollars per vehicle. For purposes of this section, "motor vehicle manufacturer" does not include a vehicle dealer defined under RCW 46.70.011 and required to be licensed as a vehicle dealer under chapter 46.70 RCW.

(7) Before the effective date of the prohibitions in RCW 70.285.030 or 70.285.050, the department ~~((shall))~~ must prepare and distribute information about the prohibitions to manufacturers, distributors, and retailers to the maximum extent practicable.

(8) All penalties collected under this chapter must be deposited in the ~~((state))~~ model toxics control operating account created in ~~((RCW 70.105D.070))~~ section 202 of this act.

Sec. 410. RCW 70.280.050 and 2010 c 140 s 5 are each amended to read as follows:

Expenses to cover the cost of administering this chapter ~~((shall))~~ must be paid from the ~~((state))~~ model toxics control operating account under ~~((RCW 70.105D.070))~~ section 202 of this act.

Sec. 411. RCW 70.300.040 and 2011 c 248 s 5 are each amended to read as follows:

(1) The department ~~((shall))~~ must enforce the requirements of this chapter.

(2)(a) A person or entity that violates this chapter is subject to a civil penalty. The department may assess and

collect a civil penalty of up to ten thousand dollars per day per violation.

(b) All penalties collected by the department under this chapter must be deposited in the ~~((state))~~ model toxics control operating account created in ~~((RCW 70.105D.070))~~ section 202 of this act.

Sec. 412. RCW 90.71.370 and 2011 1st sp.s. c 50 s 977 are each amended to read as follows:

(1) By December 1, 2008, and by September 1st of each even-numbered year beginning in 2010, the council ~~((shall))~~ must provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations ~~((shall))~~ must:

(a) Identify the funding needed by action agenda element;

(b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and

(c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council ~~((shall))~~ must include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound protection and recovery. In preparing the science panel staffing proposal, the council ~~((shall))~~ must consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council ~~((shall))~~ must produce a state of the Sound report that includes, at a minimum:

(a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;

(b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;

(c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;

(d) A review of citizen concerns provided to the partnership and the disposition of those concerns;

(e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment

of whether the use of the funds is consistent with the action agenda; and

(f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council ~~((shall))~~ must review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council ~~((shall))~~ must provide initial recommendations regarding program changes to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council ~~((shall))~~ must provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection ~~((shall))~~ must be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) Water pollution control facilities financing, chapter 70.146 RCW;

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The ~~((state toxics control account and local toxics control account))~~ model toxics control operating, capital, and stormwater accounts and clean-up program, chapter 70.105D RCW;

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review ~~((shall))~~ must include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to

fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

(5) During the 2009-2011 fiscal biennium, the council's review must result in a ranking of projects affecting the protection and recovery of the Puget Sound basin that are proposed in the governor's capital budget submitted under RCW 43.88.060. The ranking ~~((shall))~~ must include recommendations for reallocation of total requested funds for Puget Sound basin projects to achieve the greatest positive outcomes for protection and recovery of Puget Sound and ~~((shall))~~ must be submitted to the appropriate fiscal committees of the legislature no later than February 1, 2011.

(6) During the 2011-2013 fiscal biennium, the council ~~((shall))~~ must by November 1, 2012, produce the state of the Sound report as defined in subsection (3) of this section.

Sec. 413. RCW 70.105D.130 and 2010 1st sp.s. c 37 s 947 are each amended to read as follows:

(1) The cleanup settlement account is created in the state treasury. The account is not intended to replace the ~~((state))~~ model toxics control capital account established under ~~((RCW 70.105D.070))~~ section 203 of this act. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the cleanup settlement account:

(a) Receipts from settlements or court orders that direct payment to the account and resolve a person's liability or potential liability under this chapter for either or both of the following:

(i) Conducting future remedial action at a specific facility, if it is not feasible to require the person to conduct the remedial action based on the person's financial insolvency, limited ability to pay, or insignificant contribution under RCW 70.105D.040(4)(a);

(ii) Assessing or addressing the injury to natural resources caused by the release of a hazardous substance from a specific facility; and

(b) Receipts from investment of the moneys in the account.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(a) of this section into the cleanup settlement account, then the receipts from any payment to the state must be deposited into the ~~((state))~~ model toxics control capital account.

(4) Expenditures from the cleanup settlement account may only be used to conduct remedial actions at the specific facility or to assess or address the injury to natural resources caused by the release of hazardous substances from that facility for which the moneys were deposited in the account. Conducting remedial actions or assessing or addressing injury to natural resources includes direct expenditures and indirect expenditures such as department oversight costs. During the 2009-2011 fiscal biennium, the legislature may transfer excess fund balances in the account into the state efficiency and restructuring account. Transfers of excess fund balances made under this section ~~((shall))~~ may be made only to the extent amounts transferred with required repayments do not impair the ten-year spending plan administered by the department of ecology for environmental remedial actions dedicated for any designated clean-up site associated with the Everett smelter and Tacoma smelter, including plumes, or former Asarco mine sites. The cleanup settlement account must be repaid with interest under provisions of the state efficiency and restructuring account.

(5) The department ~~((shall))~~ must track moneys received, interest earned, and moneys expended separately for each facility.

(6) After the department determines that all remedial actions at a specific facility, and all actions assessing or addressing injury to natural resources caused by the release of hazardous substances from that facility, are completed, including payment of all related costs, any moneys remaining for the specific facility must be transferred to the ~~((state))~~ model toxics control capital account established under ~~((RCW 70.105D.070))~~ section 203 of this act.

(7) The department ~~((shall))~~ must provide the office of financial management and the fiscal committees of the legislature with a report by October 31st of each year regarding the activity within the cleanup settlement account during the previous fiscal year.

Sec. 414. RCW 70.105D.140 and 2013 2nd sp.s. c 1 s 3 are each amended to read as follows:

(1) The brownfield redevelopment trust fund account is created in the state treasury. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the brownfield redevelopment trust fund account:

(a) Moneys appropriated by the legislature to the account for a specific redevelopment opportunity zone established under RCW 70.105D.150 or a specific brownfield renewal authority established under RCW 70.105D.160;

(b) Moneys voluntarily deposited in the account for a specific redevelopment opportunity zone or a specific brownfield renewal authority; and

(c) Receipts from settlements or court orders that direct payment to the account for a specific redevelopment opportunity zone to resolve a person's liability or potential liability under this chapter.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(c) of this section into the brownfield redevelopment trust fund account, then the receipts from any payment to the state must be deposited into the ((state)) model toxics control capital account established under ((RCW 70.105D.070)) section 203 of this act.

(4) Expenditures from the brownfield redevelopment trust fund account may only be used for the purposes of remediation and cleanup at the specific redevelopment opportunity zone or specific brownfield renewal authority for which the moneys were deposited in the account.

(5) The department ((shall)) must track moneys received, interest earned, and moneys expended separately for each facility.

(6) The account must retain its interest earnings in accordance with RCW 43.84.092.

(7) The local government designating the redevelopment opportunity zone under RCW 70.105D.150 or the associated brownfield renewal authority created under RCW 70.105D.160 must be the beneficiary of the deposited moneys.

(8) All expenditures must be used to conduct remediation and cleanup consistent with a plan for the remediation and cleanup of the properties or facilities approved by the department under this chapter. All expenditures must meet the eligibility requirements for the use by local governments under the rules for remedial action grants adopted by the department under this chapter, including requirements for the expenditure of nonstate match funding.

(9) Beginning October 31, 2015, the department must provide a biennial report to the office of financial management and the legislature regarding the activity for each specific redevelopment opportunity zone or specific brownfield renewal authority for which specific legislative appropriation was provided in the previous two fiscal years.

(10) After the department determines that all remedial actions within the redevelopment opportunity zone identified in the plan approved under subsection (8) of this section are completed, including payment of all cost

reasonably attributable to the remedial actions and cleanup, any remaining moneys must be transferred to the ((state)) model toxics control capital account established under ((RCW 70.105D.070)) section 203 of this act.

(11) If the department determines that substantial progress has not been made on the plan approved under subsection (8) of this section for a redevelopment opportunity zone or specific brownfield renewal authority for which moneys were deposited in the account within six years, or that the brownfield renewal authority is no longer a viable entity, then all remaining moneys must be transferred to the ((state)) model toxics control operating account established under ((RCW 70.105D.070)) sections 202 of this act.

(12) The department is authorized to adopt rules to implement this section.

NEW SECTION. Sec. 415. The following acts or parts of acts are each repealed:

(1) RCW 70.105D.170 (Environmental legacy stewardship account) and 2013 2nd sp.s. c 28 s 1, 2013 2nd sp.s. c 19 s 7042, 2013 2nd sp.s. c 4 s 991, & 2013 2nd sp.s. c 1 s 10; and

(2) RCW 70.105D.070 (Toxics control accounts) and 2019 c . . . (SHB 1290) s 4, 2018 c 299 s 911, 2017 3rd sp.s. c 1 s 980, & 2016 sp.s. c 36 s 943.

NEW SECTION. Sec. 416. Any residual balance of funds remaining in the state toxics control account repealed by section 415 of this act on the effective date of this section must be transferred to the model toxics control operating account created in section 202 of this act.

NEW SECTION. Sec. 417. Any residual balance of funds remaining in the local toxics control account repealed by section 415 of this act on the effective date of this section must be transferred to the model toxics control capital account created in section 203 of this act.

NEW SECTION. Sec. 418. Any residual balance of funds remaining in the environmental legacy stewardship account repealed by section 415 of this act on the effective date of this section must be transferred to the model toxics control stormwater account created in section 204 of this act.

NEW SECTION. Sec. 419. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019."

Correct the title.

Signed by Representatives Tarleton, Chair; Walen, Vice Chair; Chapman; Frame; Macri; Orwall; Springer and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Morris; Stokesbary and Vick.

April 27, 2019

ESSB 5998 Prime Sponsor, Committee on Ways & Means: Establishing a graduated real estate excise tax. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Tarleton, Chair; Walen, Vice Chair; Chapman; Frame; Macri; Morris; Orwall; Springer and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Stokesbary and Vick.

April 27, 2019

ESB 6016 Prime Sponsor, Senator Liias: Concerning the taxation of international investment management companies. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. In 1995, the legislature enacted a business and occupation tax rate for persons providing international investment management services. The legislature finds that the original intent of this tax rate was to reduce a competitive disadvantage for a limited number of firms providing international investment management services. The fiscal note for the bill stated that "only a very limited taxpayer group would benefit from the reduced rate." The legislature further finds that as a result of the adoption of economic nexus; a single factor, market-based apportionment methodology; and significant ambiguity in the statute governing the qualifications for the tax rate; a much larger number of businesses are claiming the tax rate than was contemplated in 1995. Therefore, the legislature intends in sections 2 and 3 of this act to clarify the scope of activities and persons eligible for the tax rate to more closely align with the legislature's original intent.

Sec. 2. RCW 82.04.290 and 2014 c 97 s 404 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing qualifying international investment management services, as to such persons, the amount of tax with respect to such business is equal to the

gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2)(a) Upon every person engaging within this state in any business activity other than or in addition to an activity taxed explicitly under another section in this chapter or subsection (1) or (3) of this section; as to such persons the amount of tax on account of such activities is equal to the gross income of the business multiplied by the rate of 1.5 percent.

(b) This subsection (2) includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his or her principal or supplier to be used for informational, educational, and promotional purposes is not considered a part of the agent's remuneration or commission and is not subject to taxation under this section.

(3)(a) Until July 1, 2040, upon every person engaging within this state in the business of performing aerospace product development for others, as to such persons, the amount of tax with respect to such business is equal to the gross income of the business multiplied by a rate of 0.9 percent.

(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.534.

(c) "Aerospace product development" has the meaning as provided in RCW 82.04.4461.

Sec. 3. RCW 82.04.293 and 1997 c 7 s 3 are each amended to read as follows:

For purposes of RCW 82.04.290:

(1) A person is engaged in the business of providing qualifying international investment management services, if:

(a) Such person is engaged primarily in the business of providing investment management services; ~~((and))~~

(b) At least ten percent of the gross income of such person is derived from providing investment management services to any of the following:

(i) ~~((Persons or))~~ Collective investment funds ((residing)) commercially domiciled, as defined in RCW 82.56.010, outside the United States; or

(ii) ~~((persons or))~~ Collective investment funds with at least ten percent of their investments located outside the United States((-

~~(2) "Investment management services" means investment research, investment consulting, portfolio management, fund administration, fund distribution, investment transactions, or related investment services.~~

~~(3) "Collective investment fund" includes:~~

~~(a)~~);

(c) More than twenty-five percent of such person's employees are located in this state; and

(d) Such person is a member of an affiliated group that collectively has:

(i) Ten or more offices located in at least eight foreign countries;

(ii) At least five hundred full-time employees worldwide;

(iii) Worldwide gross revenue of more than four hundred million dollars during the entire current or immediately preceding calendar year; and

(iv) Average assets under management of more than two hundred billion dollars during the entire current or immediately preceding calendar year.

(2) An affiliate of a person engaged in the business of providing qualifying international investment management services is deemed to also be engaged in the business of providing qualifying international investment management services if the affiliate:

(a) Is primarily engaged in providing portfolio management, fund administration, fund distribution, or transfer agent services, or any combination of these activities, to, either directly or indirectly through such affiliate's affiliated group, any of the following:

(i) Collective investment funds commercially domiciled, as defined in RCW 82.56.010, outside the United States; or

(ii) Collective investment funds with at least ten percent of their investments located outside the United States; and

(b) Satisfies the requirement under subsection (1)(c) of this section.

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

(a)(i) "Affiliate" and "affiliated" mean a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(ii) For purposes of this subsection (3)(a), "control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(b) "Affiliated group" means any group of two or more persons that are all affiliated with each other.

(c) "Collective investment fund" includes:

(i) A mutual fund or other regulated investment company, as defined in section 851(a) of the internal revenue code of 1986, as amended;

~~((b))~~ (ii) An "investment company," as that term is used in section 3(a) of the investment company act of 1940, as well as any entity that would be an investment company for this purpose but for the exemptions contained in section 3(c) (1) or (11);

~~((c))~~ (iii) An "employee benefit plan," which includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the internal revenue code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law;

~~((d))~~ (iv) A fund maintained by a tax-exempt organization, as defined in section 501(c)(3) of the internal revenue code of 1986, as amended, for operating, quasi-endowment, or endowment purposes;

~~((e))~~ (v) Funds that are established for the benefit of such tax-exempt organizations, such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts; or

~~((f))~~ (vi) Collective investment funds similar to those described in ~~((a))~~ (c)(i) through ~~((e))~~ (v) of this subsection (3) created under the laws of a foreign jurisdiction.

(d) "Investment management services" means managing the collective assets of a collective investment fund by engaging, either directly or indirectly through such person's affiliated group, in all of the following activities: (i) Portfolio management; (ii) fund administration; (iii) fund distribution; and (iv) transfer agent services.

(4) Investments are located outside the United States if the underlying assets in which the investment constitutes a beneficial interest reside or are created, issued or held outside the United States.

(5) If a person engaged in the business of providing international investment management services no longer meets the Washington state employment eligibility requirements under subsection (1)(c) of this section, then an amount equal to the entire economic benefit accruing to the person in the current and immediately prior nine consecutive calendar years, or the consecutive years since the effective date of this act, whichever is less, as a result of the preferential tax rate under RCW 82.04.290(1) is immediately due and payable.

(6) The department must assess interest, but not penalties, on the amounts due under this section. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW and accrue until the taxes for which a tax preference has been used are repaid.

NEW SECTION. Sec. 4. (1) The legislature finds that a strong financial cluster is critical to the economic health of Washington state. The legislature further finds that anchor institutions are key to growing a strong financial

cluster, including international investment management firms. Therefore, the legislature finds that maintaining a competitive tax policy in Washington state enables the state to maintain its anchor investment management firms.

(2) The legislature finds that standard financial information has not historically been subject to sales tax. In 2007 the legislature clarified that sales tax does not apply to electronically delivered standard financial information purchased by investment management companies or financial institutions. In 2013, the legislature provided clarification by passing a sales and use tax exemption for standard financial information purchased by investment management companies.

(3) The legislature further finds that taxation of such standard financial information would be uncompetitive and inconsistent with the fundamental structure of sales tax as a tax on retail transactions. Therefore, it is the legislature's intent to conform with a previously determined policy objective of exempting certain standard financial information purchased by investment management companies from sales and use tax in order to improve industry competitiveness.

NEW SECTION. Sec. 5. (1) This section is the tax preference performance statement for the tax preferences contained in sections 6 and 7, chapter . . . , Laws of 2019 (sections 6 and 7 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to improve industry competitiveness, as indicated in RCW 82.32.808(2)(b) and to reduce structural inefficiencies in the tax structure as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to maintain a viable financial cluster. It is the legislature's intent to exempt sales and use taxes on sales of standard financial information to qualifying international investment management companies, in order to maintain the presence of at least one international investment management services firm headquartered in Washington state with at least two hundred billion dollars of assets under management.

(4) If a review finds that there is at least one international investment management services firm with at least two hundred billion dollars of assets under management headquartered in Washington state, then the legislature intends to extend the expiration date of the tax preferences.

Sec. 6. RCW 82.08.207 and 2013 2nd sp.s. c 13 s 702 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to sales of standard financial information to qualifying international investment management companies or persons affiliated with a qualifying international investment

management company. The exemption provided in this section applies regardless of whether the standard financial information is provided to the buyer in a tangible format or on a tangible storage medium or as a digital product transferred electronically.

(2) Sellers making tax-exempt sales under this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. For sellers who electronically file their taxes, the department must provide a separate tax reporting line for exemption amounts claimed under this section.

(3) A buyer may not continue to claim the exemption under this section once the buyer has purchased standard financial information during the current calendar year with an aggregate total selling price in excess of fifteen million dollars and an exemption has been claimed under this section or RCW 82.12.207 for such standard financial information. The fifteen million dollar limitation under this subsection does not apply to any other exemption under this chapter that applies to standard financial information. Sellers are not responsible for ensuring a buyer's compliance with the fifteen million dollar limitation under this subsection. Sellers may not be assessed for uncollected sales tax on a sale to a buyer claiming an exemption under this section after having exceeded the fifteen million dollar limitation under this subsection, except as provided in RCW 82.08.050 (4) and (5).

(4) The definitions in this subsection and RCW 82.04.293 apply throughout this section unless the context clearly requires otherwise.

(a)((+)) "Qualifying international investment management company" means a person(+

~~(A) Who is primarily engaged in the business of providing investment management services; and~~

~~(B) Who has gross income that is at least ten percent derived from providing investment management services to:~~

~~(I) Persons or collective investment funds residing outside the United States; or~~

~~(II) Collective investment funds with at least ten percent of their investments located outside the United States.~~

~~(ii) The definitions in RCW 82.04.293 apply to this subsection (4)(a)) who is eligible for the tax rate in RCW 82.04.290(1).~~

(b)(i) "Standard financial information" means financial data, facts, or information, or financial information services, not generated, compiled, or developed only for a single customer. Standard financial information includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports.

(ii) For purposes of this subsection (4)(b), "financial market data" means market pricing information, such as for

securities, commodities, and derivatives; corporate actions for publicly and privately traded companies, such as dividend schedules and reorganizations; corporate attributes, such as domicile, currencies used, and exchanges where shares are traded; and currency information.

(5) This section expires July 1, (~~2024~~) 2031.

Sec. 7. RCW 82.12.207 and 2013 2nd sp.s. c 13 s 703 are each amended to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of standard financial information by qualifying international investment management companies or persons affiliated, as defined in RCW 82.04.293, with a qualifying international investment management company. The exemption provided in this section applies regardless of whether the standard financial information is in a tangible format or resides on a tangible storage medium or is a digital product transferred electronically to the qualifying international investment management company.

(2) The definitions, conditions, and requirements in RCW 82.08.207 apply to this section.

(3) This section expires July 1, (~~2024~~) 2031.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. The provisions of RCW 82.32.805 and 82.32.808 do not apply to sections 2 and 3 of this act.

NEW SECTION. Sec. 10. Sections 2 and 3 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 July 1, 2019."

Correct the title.

On page 3, line 9, after "period" insert "or the property and payroll is in excess of one million dollars annually or is part of an affiliated group that meets this requirement"

On page 5, line 8, after "distribution;" strike "and"

On page 5, line 9, after "services" insert "; and (v) investment services"

On page 5, beginning on line 14, strike all of subsection (5)

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

Signed by Representatives Tarleton, Chair; Walen, Vice Chair; Chapman; Morris; Orwall; Springer; Vick and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representatives Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Frame and Macri.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were placed on the second reading calendar.

The Speaker (Representative Lovick presiding) called upon Representative Orwall to preside.

There being no objection, the House reverted to the third order of business.

MESSAGES FROM THE SENATE

April 26, 2019

MR. SPEAKER:

The Senate has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO.
5313,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 27, 2019

MR. SPEAKER:

The Senate concurred in the House amendment(s) to the following bills and passed the bills as amended by the House:

SENATE BILL NO. 5881,
SUBSTITUTE SENATE BILL NO. 5883,
SUBSTITUTE SENATE BILL NO. 5894,
ENGROSSED SENATE BILL NO. 5937,

and the same are herewith transmitted.

Sarah Bannister, Deputy Secretary

April 27, 2019

MR. SPEAKER:

The President has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO.
5258,
SENATE BILL NO. 5360,
SUBSTITUTE SENATE BILL NO. 5380,
SECOND SUBSTITUTE SENATE BILL NO. 5602,

SECOND SUBSTITUTE SENATE BILL NO. 5604,
 SENATE BILL NO. 5605,
 ENGROSSED SUBSTITUTE SENATE BILL NO.
 5741,
 SUBSTITUTE SENATE BILL NO. 5748,
 SECOND SUBSTITUTE SENATE BILL NO. 5800,
 SUBSTITUTE SENATE BILL NO. 5815,
 SENATE BILL NO. 5817,
 SECOND SUBSTITUTE SENATE BILL NO. 5846,
 SUBSTITUTE SENATE BILL NO. 5861,

and the same are herewith transmitted.

Sarah Bannister, Deputy Secretary

April 27, 2019

MR. SPEAKER:

The Senate has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO.
 1107,
 HOUSE BILL NO. 1301,
 SUBSTITUTE HOUSE BILL NO. 1652,

and the same are herewith transmitted.

Sarah Bannister, Deputy Secretary

April 27, 2019

MR. SPEAKER:

The Senate has granted the request of the House for a Conference on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1160. The President has appointed the following members as Conferees: Hobbs, King, Saldaña

Brad Hendrickson, Secretary

April 27, 2019

MR. SPEAKER:

The Senate concurred in the House amendment(s) to the following bill and passed the bill as amended by the House:

SUBSTITUTE SENATE BILL NO. 5955,

and the same is herewith transmitted.

Brad Hendrickson, Secretary

April 27, 2019

MR. SPEAKER:

The Senate has adopted the report of the Conference Committee on SUBSTITUTE HOUSE BILL NO. 1170, and has passed the bill as recommended by the Conference Committee.

Brad Hendrickson, Secretary

There being no objection, the House advanced to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5825, by Senate Committee on Transportation (originally sponsored by Hobbs and King)

Addressing the tolling of Interstate 405, state route number 167, and state route number 509.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 104, April 27, 2019).

Representative Gildon moved the adoption of amendment (885) to the committee striking amendment:

On page 8, after line 12 of the striking amendment, insert the following:

"(g) After the bonds issued pursuant to section 2(1)(a) of this act are retired, the tolling authority must reduce the toll rates commensurate with this reduction in the amount of toll revenues required from the express toll lanes."

On page 11, after line 14 of the striking amendment, insert the following:

"(c) After the bonds issued pursuant to section 2(1)(b) of this act are retired, the tolling authority must reduce the toll rates commensurate with this reduction in the amount of toll revenues required from the express toll lanes."

Representatives Gildon and Fey spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (885) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

There being no objection, the House deferred action on ENGROSSED SUBSTITUTE SENATE BILL NO. 5825, as amended by the House, and the bill held its place on the third reading calendar.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5997, by Senate Committee on Ways & Means (originally sponsored by Rolfes and Hunt)

Eliminating or narrowing certain tax preferences to increase state revenue for essential public services. Revised for 1st Substitute: Eliminating or narrowing certain tax preferences to increase state revenue for essential public services. (REVISED FOR ENGROSSED: Increasing revenues by revising tax preferences and enforcement processes.)

The bill was read the second time.

With the consent of the House, amendment (918) was withdrawn.

Representative Orcutt moved the adoption of amendment (869):

Beginning on page 1, line 10, strike all of section 101 and insert the following:

"**Sec. 101.** RCW 82.08.0273 and 2014 c 140 s 17 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to nonresidents of this state of tangible personal property, digital goods, and digital codes ~~((when))~~. The exemption only applies if:

- (a) The property is for use outside this state;
- (b) The purchaser is a bona fide resident of a province or territory of Canada or a state, territory, or possession of the United States, other than the state of Washington; and
 - (i) Such state, possession, territory, or province does not impose, or have imposed on its behalf, a generally applicable retail sales tax, use tax, value added tax, gross receipts tax on retailing activities, or similar generally applicable tax, of three percent or more; or
 - (ii) If imposing a tax described in (b)(i) of this subsection, provides an exemption for sales to Washington residents by reason of their residence; and
- (c) The purchaser agrees, when requested, to grant the department of revenue access to such records and other forms of verification at his or her place of residence to assure that such purchases are not first used substantially in the state of Washington.

(2) Notwithstanding anything to the contrary in this chapter, if parts or other tangible personal property are installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a separate charge for the tangible personal property, the tax levied by RCW 82.08.020 does not apply to the separately stated charge to a nonresident purchaser for the tangible personal property but only if the separately stated charge does not exceed either the seller's current publicly stated retail price for the tangible personal property or, if no publicly stated retail price is available, the seller's cost for the tangible personal property. However, the exemption provided by this section does not apply if tangible personal property is installed by the seller

during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a single nonitemized charge for providing the tangible personal property and service. All of the requirements in subsections (1) and (3) through ~~((6))~~ (7) of this section apply to this subsection.

(3)(a) Any person claiming exemption from retail sales tax under the provisions of this section must display proof of his or her current nonresident status as provided in this section.

(b) Acceptable proof of a nonresident person's status includes one piece of identification such as a valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card which has a photograph of the holder and is issued by the out-of-state jurisdiction. Identification under this subsection (3)(b) must show the holder's residential address and have as one of its legal purposes the establishment of residency in that out-of-state jurisdiction.

(c) In lieu of furnishing proof of a person's nonresident status under (b) of this subsection (3), a person claiming exemption from retail sales tax under the provisions of this section may provide ~~((the seller with))~~ an exemption certificate in compliance with subsection ~~((4)(b))~~ (5)(c) of this section.

(4)(a) For purchases made in any of the four largest counties west of the Cascades that do not share a border with a state that does not impose a retail sales tax, any person claiming exemption from retail sales tax under the provisions of this section must pay the state and local sales tax to the seller at the time of purchase and then request a remittance from the department in accordance with this subsection and subsection (5) of this section. A request for remittance must include proof of the person's status as a nonresident at the time of the purchase for which the remittance was requested. The request for the remittance must also include any additional information and documentation as required by the department, which may include a description of the item purchases for which a remittance is requested, the sales price of the item, the amount of sales tax paid on the item, the date of purchase, the name of the seller and the physical address where the sale took place, and copies of sales receipts showing the qualified purchase.

(b)(i) Beginning January 1, 2020, through December 31, 2020, a person may request a remittance from the department for state sales taxes paid by the person on qualified retail purchases made in Washington between July 1, 2019, and December 31, 2019.

(ii) Beginning January 1, 2021, a person may request a remittance from the department during any calendar year for state sales taxes paid by the person on qualified retail purchases made in Washington during the immediately preceding calendar year only. No application may be made with respect to purchases made before the immediately preceding calendar year.

(c) The remittance request, including proof of nonresident status and any other documentation and

information required by the department, must be provided in a form and manner as prescribed by the department. Only one remittance request may be made by a person per calendar year.

(d) The total amount of a remittance request must be at least twenty-five dollars. The department must deny any request for a remittance that is less than twenty-five dollars.

(e) The department will examine the applicant's proof of nonresident status and any other documentation and information as required in the application to determine whether the applicant is entitled to a remittance under this section.

(5)(a) For purchases in any county except the four largest counties west of the Cascades that do not share a border with a state that does not impose a retail sales tax, a person claiming the exemption from retail sales under the provisions of this section must provide proof of his or her nonresident status as provided in this section at the time of purchase.

(b) Nothing in this section requires the vendor to make tax exempt retail sales to nonresidents. A vendor may choose to make sales to nonresidents, collect the sales tax, and remit the amount of sales tax collected to the state as otherwise provided by law. If the vendor chooses to make a sale to a nonresident without collecting the sales tax, the vendor must examine the purchaser's proof of nonresidence, determine whether the proof is acceptable under subsection (3)(b) of this section, and maintain records for each nontaxable sale which must show the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any.

~~((b))~~ (c) In lieu of using the method provided in ~~((a))~~ (b) of this subsection to document an exempt sale to a nonresident, a seller may accept from the purchaser a properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board or any other exemption certificate as may be authorized by the department and properly completed by the purchaser. A nonresident purchaser who uses an exemption certificate authorized in this subsection ~~((4)(b))~~ (5)(c) must include the purchaser's driver's license number or other state-issued identification number and the state of issuance.

~~((e))~~ (d) In lieu of using the methods provided in ~~((a) and)~~ (b) and (c) of this subsection to document an exempt sale to a nonresident, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

~~((5))~~ (6)(a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a vendor, in order to purchase goods without paying retail sales tax is guilty of perjury under chapter 9A.72 RCW.

(b) Any person making tax exempt purchases under this section by displaying proof of identification not his or her own, or counterfeit identification, with intent to violate the provisions of this section, is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal

to the greater of one hundred dollars or the tax due on such purchases.

~~((6))~~ (7)(a) Any vendor who makes sales without collecting the tax and who fails to maintain records of sales to nonresidents as provided in this section is personally liable for the amount of tax due.

(b) Any vendor who makes sales without collecting the retail sales tax under this section and who has actual knowledge that the purchaser's proof of identification establishing out-of-state residency is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the purchaser and the vendor are liable for any penalties and interest assessable under chapter 82.32 RCW.

~~((7))~~ (8) The exemption in this section does not apply to sales of marijuana, useable marijuana, or marijuana-infused products."

Representatives Orcutt, Vick, Klippert and Walsh spoke in favor of the adoption of the amendment.

Representative Macri spoke against the adoption of the amendment.

Division was demanded on the adoption of amendment (869) and the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 42 - YEAS; 56 - NAYS.

Amendment (869) was not adopted.

Representative Vick moved the adoption of amendment (920):

On page 6, after line 16, insert the following:

NEW SECTION. Sec. 102. A new section is added to chapter 82.08 RCW to read as follows:

(1) The border community mitigation account is created in the state treasury.

(2) Expenditures from the account may be used only for the support of border communities impacted by the imposition of the remittance program created in RCW 82.08.0273.

(a) Transfers pursuant to section 103 of this act must be used for grants to border community local taxing districts.

(b) Other moneys deposited into the account may be used for border community retail business compliance grants.

NEW SECTION. Sec. 103. A new section is added to chapter 82.08 RCW to read as follows:

(1) In order to mitigate the local sales tax revenue net losses as the result of the remittance program created in RCW 82.08.0273, the state treasurer must transfer, on January 1, 2020, and each January 1st thereafter, into the border county mitigation account from the general fund, the sum required to mitigate actual net losses as determined under this section.

(2) Beginning January 1, 2020, and continuing until the department determines annual losses have ceased, the department must determine the amount of local sales tax net loss each border community local taxing district experiences as a result of the change of the nonresident sales tax exemption into a remittance program each calendar quarter. The department must determine losses by analyzing and comparing data from tax return information and tax collections for each border community local taxing district before and after July 1, 2019. Beginning June 30, 2020, distributions must be made quarterly from the border community mitigation account by the state treasurer, as determined by the department, to each border community local taxing district receiving a grant in an amount representing its net losses for the previous calendar quarter. Distributions must be made on the last working day of the quarter.

(3) Beginning January 1, 2020, applications may be made quarterly to the border community mitigation account by border community taxing districts and border community businesses.

(a) A border community local taxing district may apply for a grant in an amount up to their net sales tax loss for the previous quarter as the result of the nonresident sales tax exemption remittance program. Applications must be submitted in the time and manner established by the department.

(b) The border community retail business compliance grant program is established and must be administered by the department.

(i) A border community retail business may apply for compliance cost reimbursement that results from the change of the nonresident sales tax exemption to a remittance. This includes costs associated with providing necessary documentation for a nonresident remittance application, remittance application assistance, and educational materials.

(ii) The department must develop criteria and application requirements for the border community retail business compliance grant program.

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

(a) "Border community local taxing district" means a local taxing district located in a county that shares a border with a state that does not impose a state retail sales and use tax.

(b) "Border community retail business" means a retail business open to the general public and located in a

county that shares a border with a state that does not impose a state sales tax.

NEW SECTION. Sec. 104. The sum of one million dollars, or as much thereof as may be necessary, is appropriated for the fiscal biennium ending June 30, 2021, from the general fund to the border community mitigation account created in section 102 of this act for the purposes of funding border community compliance grants."

Correct the title.

Representatives Vick, Kraft, Orcutt, Walsh, Hoff and Irwin spoke in favor of the adoption of the amendment.

Representatives Tarleton and Stonier spoke against the adoption of the amendment.

Amendment (920) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

There being no objection, House Rule 13 (C) was suspended allowing the House to work past 10:00 p.m.

Representatives Springer, Frame and Riccelli spoke in favor of the passage of the bill.

Representatives Orcutt, Caldier, Jenkin, Corry, Harris, Hoff, Vick, Volz and Walsh spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5997.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5997, and the bill passed the House by the following vote: Yeas, 55; Nays, 43; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mead, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5997, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5998, by Senate Committee on Ways & Means (originally sponsored by Nguyen, Lovelett, Hasegawa, Salomon and Hunt)

Establishing a graduated real estate excise tax.

The bill was read the second time.

With the consent of the House, amendments (911) and (908) were withdrawn.

Representative Orcutt moved the adoption of amendment (909):

On page 1, line 14, after "(c)" insert "and (d)"

On page 2, line 6, after "(c)" insert "For the sale of real property that is classified as affordable housing:

(i) If the selling price is equal to or less than five hundred thousand dollars, nine-tenths percent of the selling price; and

(ii) If the selling price is greater than five hundred thousand dollars, one and twenty-eight one-hundredths percent of the selling price.

(d)"

Correct any internal references accordingly.

Representatives Orcutt and Barkis spoke in favor of the adoption of the amendment.

Representative Walen spoke against the adoption of the amendment.

Amendment (909) was not adopted.

Representative Young moved the adoption of amendment (907):

On page 2, line 6, after "timberland" insert ", undeveloped land, water or mineral rights."

On page 3, after line 39, insert the following:

"(e) "Undeveloped land" means any land unaltered from the natural state by the construction, creation, or addition of structures or impervious surfaces."

Representatives Young, Young (again) and Hoff spoke in favor of the adoption of the amendment.

Representative Springer spoke against the adoption of the amendment.

Amendment (907) was not adopted.

Representative Volz moved the adoption of amendment (910):

On page 12, after line 12, insert the following:

"Sec. 8. RCW 82.45.180 and 2013 c 251 s 11 are each amended to read as follows:

(1)(a) For taxes collected by the county under this chapter, the county treasurer (~~(shall)~~) must collect a five dollar fee on all transactions required by this chapter where the transaction does not require the payment of tax. A total of five dollars (~~(shall)~~) must be collected in the form of a tax and fee, where the calculated tax payment is less than five dollars. (~~Through June 30, 2006, the county treasurer shall place one percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. After June 30, 2006, the county treasurer shall place one and three tenths percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. For taxes collected by the county under this chapter before July 1, 2006, the county treasurer shall pay over to the state treasurer and account to the department of revenue for the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. For~~) From the taxes collected by the county under this chapter, the county treasurer must place an amount equal to 0.017 percent of the selling price for each taxable transaction under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. Taxes collected by the county under this chapter after June 30, 2006, on a monthly basis the county treasurer (~~(shall)~~) must pay over to the state treasurer the month's transmittal. The month's transmittal must be received by the state treasurer by 12:00 p.m. on the last working day of each month. The county treasurer (~~(shall)~~) must account to the department for the month's transmittal by the twentieth day of the month following the month in which the month's transmittal was paid over to the state treasurer. The state treasurer (~~(shall)~~) must deposit the proceeds in the general fund.

(b) (~~For purposes of this subsection, the definitions in this subsection apply.~~) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(i) "Close of business" means the time when the county treasurer makes his or her daily deposit of proceeds.

(ii) "Month's transmittal" means all proceeds deposited by the county through the close of business of the day that is two working days before the last working day of the month. This definition of "month's transmittal" (~~(shall)~~) may not be construed as requiring any change in a county's practices regarding the timing of its daily deposits of proceeds.

(iii) "Proceeds" means moneys collected and received by the county from the taxes imposed by this

chapter, less the county's share of the proceeds used to defray the county's costs of collection allowable in (a) of this subsection.

(iv) "Working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as provided in RCW 1.16.050.

(2) For taxes collected by the department of revenue under this chapter, the department ~~((shall))~~ must remit the tax to the state treasurer who ~~((shall))~~ must deposit the proceeds of any state tax in the general fund. The state treasurer ~~((shall))~~ must deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account hereby created in the state treasury. Moneys in the local real estate excise tax account may be spent only for distribution to counties, cities, and towns imposing a tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local real estate excise tax account ~~((shall))~~ must be credited to the local real estate excise tax account and distributed to the counties, cities, and towns monthly. Monthly the state treasurer ~~((shall))~~ must make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority. The state treasurer ~~((shall))~~ must make the distribution under this subsection without appropriation.

(3)(a) Through June 30, 2010, the county treasurer ~~((shall))~~ must collect an additional five dollar fee on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer ~~((shall))~~ must remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer ~~((shall))~~ must place money from this fee in the general fund. By the twentieth day of the subsequent month, the state treasurer ~~((shall))~~ must distribute to each county treasurer according to the following formula: Three-quarters of the funds available ~~((shall))~~ must be equally distributed among the thirty-nine counties; and the balance ~~((shall))~~ must be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(b) When received by the county treasurer, the funds ~~((shall))~~ must be placed in a special real estate excise tax electronic technology fund held by the county treasurer to be used exclusively for the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. Funds may be expended to make the system compatible with the automated real estate excise tax system developed by the department and compatible with the processes used in the offices of the county assessor and county auditor. Any funds held in the account that are not expended by the earlier of: July 1, 2015, or at such time that the county treasurer is utilizing an electronic processing and reporting system for real estate excise tax affidavits compatible with the department and compatible with the processes used in the offices of the county assessor and county auditor, revert to the special real estate and property tax administration assistance account in accordance with subsection (5)(c) of this section.

(4) Beginning July 1, 2010, through December 31, 2013, the county treasurer ~~((shall))~~ must continue to collect the additional five dollar fee in subsection (3) of this section on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. During this period, the county treasurer ~~((shall))~~ must remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer ~~((shall))~~ must place money from this fee in the annual property revaluation grant account created in RCW 84.41.170.

(5)(a) The real estate and property tax administration assistance account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

(b) Beginning January 1, 2014, the county treasurer must continue to collect the additional five dollar fee in subsection (3) of this section on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer ~~((shall))~~ must deposit one-half of this fee in the special real estate and property tax administration assistance account in accordance with (c) of this subsection and remit the balance to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer must place money from this fee in the real estate and property tax administration assistance account. By the twentieth day of the subsequent month, the state treasurer must distribute the funds to each county treasurer according to the following formula: One-half of the funds available must be equally distributed among the thirty-nine counties; and the balance must be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds must be placed in a special real estate and property tax administration assistance account held by the county treasurer to be used for:

(i) Maintenance and operation of an annual revaluation system for property tax valuation; and

(ii) Maintenance and operation of an electronic processing and reporting system for real estate excise tax affidavits."

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

Representatives Volz and Orcutt spoke in favor of the adoption of the amendment.

Representative Springer spoke against the adoption of the amendment.

Amendment (910) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Frame spoke in favor of the passage of the bill.

Representative Orcutt spoke against the passage of the bill.

There being no objection, the House deferred action on ENGROSSED SUBSTITUTE SENATE BILL NO. 5998, and the bill held its place on the third reading calendar.

There being no objection, the House advanced to the seventh order of business.

THIRD READING

There being no objection, the House resumed consideration of. ENGROSSED SUBSTITUTE SENATE BILL NO. 5825 on third reading and final passage.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5825, by Senate Committee on Transportation (originally sponsored by Hobbs and King)

Addressing the tolling of Interstate 405, state route number 167, and state route number 509.

Representatives Fey, Barkis, Wylie, Slatter and Chambers spoke in favor of the passage of the bill.

Representative Walsh spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5825.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5825, and the bill passed the House by the following vote: Yeas, 60; Nays, 38; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Callan, Chambers, Chapman, Chopp, Cody, Davis, Dent, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kirby, Klippert, Kloba, Lekanoff, Lovick, Macri, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Steele, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Blake, Boehnke, Caldier, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Kilduff, Kraft, Kretz, Leavitt, MacEwen, Maycumber, McCaslin, Mead, Mosbrucker, Orcutt, Paul, Schmick, Shea, Smith,

Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5825, having received the necessary constitutional majority, was declared passed.

There being no objection, the House resumed consideration of. ENGROSSED SUBSTITUTE SENATE BILL NO. 5998 on third reading and final passage.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5998, by Senate Committee on Ways & Means (originally sponsored by Nguyen, Lovelett, Hasegawa, Salomon and Hunt)

Establishing a graduated real estate excise tax.

Representatives Vick and Schmick spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5998.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5998, and the bill passed the House by the following vote: Yeas, 56; Nays, 42; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, Leavitt, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5998, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5160, by Senate Committee on Ways & Means (originally

sponsored by **Dhingra, Wellman, Palumbo, Keiser, Rolfes, Das, Randall, Wilson, C., Fortunato, Hasegawa, King and Kuderer**)

Concerning property tax exemptions for service-connected disabled veterans and senior citizens.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Finance was not adopted. (For Committee amendment, see Journal, Day 74, March 28, 2019).

Amendment (887) to the committee amendment, was ruled out of order.

Representative Orcutt moved the adoption of amendment (888):

On page 6, line 3, strike "and" and insert "~~(and)~~"

On page 6, beginning on line 4, after "premiums for" strike all material through "act" on line 5 and insert "~~((medicare under Title XVIII of the social security act))~~ health care coverage, including dental coverage, vision coverage, copayments, and for medicare under Title XVIII of the social security act;

(d) Durable medical equipment, mobility enhancing equipment, prosthetic devices, and medically prescribed oxygen as defined in RCW 82.08.0283;

(e) Alterations made to the residence to accommodate or install medical equipment; and

(f) Long-term care insurance, as defined in RCW 48.84.020"

Representatives Orcutt, Boehnke and Schmick spoke in favor of the adoption of the amendment.

Representative Frame spoke against the adoption of the amendment.

Amendment (888) was not adopted.

With the consent of the House, amendment (497) was withdrawn.

Representative Tarleton moved the adoption of the striking amendment (826):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.36.381 and 2018 c 46 s 2 are each amended to read as follows:

A person is exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1)(a) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing. However, any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant may receive an exemption on more than one residence in any year. Moreover, confinement of the person to a hospital, nursing home, assisted living facility, ~~((or))~~ adult family home, or home of a relative for the purpose of long-term care does not disqualify the claim of exemption if:

~~((a))~~ (i) The residence is temporarily unoccupied;

~~((b))~~ (ii) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support; or

~~((c))~~ (iii) The residence is rented for the purpose of paying nursing home, hospital, assisted living facility, or adult family home costs.

(b) For the purpose of this subsection (1), "relative" means any individual related to the claimant by blood, marriage, or adoption;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or state registered domestic partnership or owned by cotenants is deemed to be owned by each spouse or each domestic partner or each cotenant, and any lease for life is deemed a life estate;

(3)(a) The person claiming the exemption must be:

(i) Sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability; or

(ii) A veteran of the armed forces of the United States entitled to and receiving compensation from the United States department of veterans affairs at ~~((a total disability rating for a service-connected disability));~~

(A) A combined service-connected evaluation rating of eighty percent or higher; or

(B) A total disability rating for a service-connected disability without regard to evaluation percent.

(b) However, any surviving spouse or surviving domestic partner of a person who was receiving an exemption at the time of the person's death will qualify if the surviving spouse or surviving domestic partner is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person is exempt from an obligation to pay is calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the

person claiming the exemption was retired for two months or more of the assessment year, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the assessment year by reason of the death of the person's spouse or the person's domestic partner, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person after such occurrences by twelve. If it is necessary to estimate income to comply with this subsection, the assessor may require confirming documentation of such income prior to May 31 of the year following application;

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income (~~(of forty thousand dollars or less)~~) equal or less than income threshold 3 is exempt from all excess property taxes, the additional state property tax imposed under RCW 84.52.065(2), and the portion of the regular property taxes authorized pursuant to RCW 84.55.050 and approved by the voters, if the legislative authority of the county or city imposing the additional regular property taxes identified this exemption in the ordinance placing the RCW 84.55.050 measure on the ballot; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income (~~(of thirty-five thousand dollars or less but greater than thirty thousand dollars)~~) equal to or less than income threshold 2 but greater than income threshold 1 is exempt from all regular property taxes on the greater of fifty thousand dollars or thirty-five percent of the valuation of his or her residence, but not to exceed seventy thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income (~~(of thirty thousand dollars or less)~~) equal to or less than income threshold 1 is exempt from all regular property taxes on the greater of sixty thousand dollars or sixty percent of the valuation of his or her residence;

(6)(a) For a person who otherwise qualifies under this section and has a combined disposable income (~~(of forty thousand dollars or less)~~) equal or less than income threshold 3, the valuation of the residence is the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation must be used upon requalification. If the person fails to qualify for more than one year in succession because of high income or fails to qualify for any other reason, the valuation upon requalification is the assessed value on January 1st of the assessment year in which the person requalifies. If the person transfers the exemption under this section to a different residence, the valuation of the different residence is the assessed value of the different residence on

January 1st of the assessment year in which the person transfers the exemption.

(b) In no event may the valuation under this subsection be greater than the true and fair value of the residence on January 1st of the assessment year.

(c) This subsection does not apply to subsequent improvements to the property in the year in which the improvements are made. Subsequent improvements to the property must be added to the value otherwise determined under this subsection at their true and fair value in the year in which they are made.

Sec. 2. RCW 84.36.383 and 2012 c 10 s 74 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, (~~(except where the context clearly indicates a different meaning)~~) unless the context clearly requires otherwise:

(1) The term "residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term also includes a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term also includes a single-family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a residence is deemed real property.

(2) The term "real property" also includes a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities. A mobile home located on land leased by the owner of the mobile home is subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) "Department" means the state department of revenue.

(4) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions;

(b) The treatment or care of either person received in the home or in a nursing home, assisted living facility, or adult family home; and

(c) Health care insurance premiums for medicare under Title XVIII of the social security act.

(5) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments;

(f) Veterans benefits, other than:

(i) Attendant-care payments;

(ii) Medical-aid payments;

(iii) Disability compensation, as defined in Title 38, part 3, section 3.4 of the code of federal regulations, as of January 1, 2008; and

(iv) Dependency and indemnity compensation, as defined in Title 38, part 3, section 3.5 of the code of federal regulations, as of January 1, 2008;

(g) Federal social security act and railroad retirement benefits;

(h) Dividend receipts; and

(i) Interest received on state and municipal bonds.

(6) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

(7) "Disability" has the same meaning as provided in 42 U.S.C. Sec. 423(d)(1)(A) as amended prior to January 1, 2005, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(8) "County median household income" means the median household income estimates for the state of Washington by county of the legal address of the principal place of residence, as published by the office of financial management.

(9) "Income threshold 1" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to thirty thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 1" for the previous year or forty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(10) "Income threshold 2" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to thirty-five thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 2" for the previous year or fifty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(11) "Income threshold 3" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to forty thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 3" for the previous year or sixty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(12) "Principal place of residence" means a residence occupied for more than nine months each calendar year by a person claiming an exemption under RCW 84.36.381.

Sec. 3. RCW 84.36.385 and 2011 c 174 s 106 are each amended to read as follows:

(1) A claim for exemption under RCW 84.36.381 as now or hereafter amended, may be made and filed at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as prescribed and furnished by the department of revenue. However, an exemption from tax under RCW 84.36.381 continues for no more than six years unless a renewal application is filed as provided in subsection (3) of this section.

(2) A person granted an exemption under RCW 84.36.381 must inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW 84.36.381 in 1993 and thereafter(;) must file with the county assessor a renewal application not later than December 31 of the year the assessor notifies such person of the requirement to file the renewal application. Renewal applications must be on forms prescribed and furnished by the department of revenue.

(4) At least once every six years, the county assessor must notify those persons receiving an exemption from taxes under RCW 84.36.381 of the requirement to file a renewal application. The county assessor may also require a renewal application following an amendment of the income requirements set forth in RCW 84.36.381.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim or exemption must be denied but such denial is subject to appeal under the provisions of RCW 84.48.010 and in accordance with the provisions of RCW 84.40.038. If the applicant had received exemption in prior years based on erroneous information, the taxes must be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed five years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information must be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

(7) The department must authorize an option for electronic filing of applications and renewal applications for the exemption under RCW 84.36.381.

(8) Beginning August 1, 2019, and by March 1st every fifth year thereafter, the department must publish updated income thresholds. The adjusted thresholds must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply. The department must adjust income thresholds for each county to reflect the most recent year available of estimated county median household incomes, including preliminary estimates or projections, as published by the office of financial management. For the purposes of this subsection, "county median household income" has the same meaning as provided in RCW 84.36.383.

(9) Beginning with the adjustment made by March 1, 2024, as provided in subsection (8) of this section, and every second adjustment thereafter, if an income threshold in a county is not adjusted based on percentage of county median income, then the income threshold must be adjusted based on the growth of the consumer price index for all urban consumers (CPI-U) for the prior twelve month period as published by the United States bureau of labor statistics. In no case may the adjustment be greater than one percent. The adjusted thresholds must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply.

Sec. 4. RCW 84.38.020 and 2006 c 62 s 2 are each amended to read as follows:

~~((Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:)) The~~

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

(1)(a) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

(b) When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant ((shall be)) is.

(2) ((("Department" means the state department of revenue.)) "Devisee" has the same meaning as provided in RCW 21.35.005.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Heir" has the same meaning as provided in RCW 21.35.005.

(5) "Income threshold" means: (a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to forty-five thousand dollars; and (b) for taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of the income threshold for the previous year, or seventy-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8). Beginning with the adjustment made by March 1, 2024, as provided in RCW 84.36.385(8), and every second adjustment thereafter, if the income threshold in a county is not adjusted based on percentage of county median income as provided in this subsection, then the income threshold must be adjusted based on the growth of the consumer price index for all urban consumers (CPI-U) for the prior twelve-month period as published by the United States bureau of labor statistics. In no case may the adjustment be greater than one percent. The adjusted threshold must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply.

(6) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special assessments.

((5)) (7) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

((6)) (8) "Residence" has the meaning given in RCW 84.36.383.

((7)) (9) "Special assessment" means the charge or obligation imposed by a local government upon property specially benefited.

Sec. 5. RCW 84.38.030 and 2015 3rd sp.s. c 30 s 3 and 2015 c 86 s 313 are each reenacted and amended to read as follows:

A claimant may defer payment of special assessments and/or real property taxes on up to eighty percent of the amount of the claimant's equity value in the claimant's residence if the following conditions are met:

(1) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the age and income limits under RCW 84.36.381.

(2) The claimant must be sixty years of age or older on December 31st of the year in which the deferral claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability as defined in RCW 84.36.383. However, any surviving spouse ~~((or)),~~ surviving domestic partner, heir, or devisee of a person who was receiving a deferral at the time of the person's death qualifies if the surviving spouse ~~((or)),~~ surviving domestic partner, heir, or devisee is fifty-seven years of age or older and otherwise meets the requirements of this section.

(3) The claimant must have a combined disposable income, as defined in RCW 84.36.383, ~~((of forty five thousand dollars or less))~~ equal to or less than the income threshold.

(4) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community, owned by domestic partners, or owned by cotenants is deemed to be owned by each spouse, each domestic partner, or each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value. However, if the claimant fails to keep fire and casualty insurance in force to the extent of the state's interest in the claimant's equity value, the amount deferred may not exceed one hundred percent of the claimant's equity value in the land or lot only.

(6) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

Sec. 6. RCW 84.38.070 and 2008 c 6 s 703 are each amended to read as follows:

If the claimant declaring his or her intention to defer special assessments or real property tax obligations under this chapter ceases to reside permanently on the property for which the declaration to defer is made between the date of filing the declaration and December 15th of that year, the deferral otherwise allowable under this chapter ~~((shall))~~ is not ~~((be))~~ allowed on such tax roll. However, this section ~~((shall))~~ does not apply where the claimant dies, leaving a

spouse ~~((or)),~~ domestic partner, heir, or devisee surviving, who is also eligible for deferral of special assessment and/or property taxes.

Sec. 7. RCW 84.38.130 and 2008 c 6 s 704 are each amended to read as follows:

Special assessments and/or real property tax obligations deferred under this chapter ~~((shall))~~ become payable together with interest as provided in RCW 84.38.100:

(1) Upon the sale of property which has a deferred special assessment and/or real property tax lien upon it.

(2) Upon the death of the claimant with an outstanding deferred special assessment and/or real property tax lien except a surviving spouse ~~((or)),~~ surviving domestic partner, heir, or devisee who is qualified under this chapter may elect to incur the special assessment and/or real property tax lien, which ~~((shall))~~ is then ~~((be))~~ payable by that spouse ~~((or that)),~~ domestic partner, heir, or devisee as provided in this section.

(3) Upon the condemnation of property with a deferred special assessment and/or real property tax lien upon it by a public or private body exercising eminent domain power, except as otherwise provided in RCW 84.60.070.

(4) At such time as the claimant ceases to reside permanently in the residence upon which the deferral has been granted.

(5) Upon the failure of any condition set forth in RCW 84.38.030.

Sec. 8. RCW 84.38.150 and 2008 c 6 s 705 are each amended to read as follows:

(1) A surviving spouse ~~((or)),~~ surviving domestic partner, heir, or devisee of the claimant may elect to continue the property in its deferred tax status if the property is the residence of the spouse ~~((or)),~~ domestic partner, heir, or devisee of the claimant and the spouse ~~((or)),~~ domestic partner, heir, or devisee meets the requirements of this chapter.

(2) The election under this section to continue the property in its deferred status by the spouse ~~((or)),~~ the domestic partner, heir, or devisee of the claimant ~~((shall))~~ must be filed in the same manner as an original claim for deferral is filed under this chapter ~~((, not later than ninety days from the date of the claimant's death))~~. Thereupon, the property with respect to which the deferral of special assessments and/or real property taxes is claimed ~~((shall))~~ must continue to be treated as deferred property. When the property has been continued in its deferred status by the filing of the spouse ~~((or)),~~ the domestic partner, heir, or devisee of the claimant of an election under this section, the spouse ~~((or)),~~ the domestic partner, heir, or devisee of the claimant may continue the property in its deferred status in subsequent years by filing a claim under this chapter so long

as the spouse (~~or the~~), domestic partner, heir, or devisee meets the qualifications set out in this section.

NEW SECTION. Sec. 9. This act applies for taxes levied for collection in 2020 and thereafter.

NEW SECTION. Sec. 10. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act."

Correct the title.

Representatives Tarleton, Orcutt and Wylie spoke in favor of the adoption of the striking amendment.

The striking amendment (826) was adopted.

Amendment (886) was ruled out of order.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Reeves, Orcutt, Kraft, Paul and Lekanoff spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5160, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5160, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5160, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, the House advanced to the seventh order of business.

THIRD READING

MESSAGE FROM THE SENATE

April 25, 2019

Mr. Speaker:

The Senate insists on its position on SUBSTITUTE SENATE BILL NO. 5025 and asks the House to recede from the House amendments.

and the same is herewith transmitted.

Brad Hendrickson, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to SUBSTITUTE SENATE BILL NO. 5025.

Representatives Leavitt and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5025.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5025, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5025, having received the necessary constitutional majority, was declared passed.

With the consent of the House, SUBSTITUTE SENATE BILL NO. 5025 was immediately transmitted to the Senate.

The Speaker (Representative Orwall presiding) called upon Representative Bergquist to preside.

The Speaker assumed the chair.

SIGNED BY THE SPEAKER

The Speaker signed the following bills:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1107
 SUBSTITUTE HOUSE BILL NO. 1195
 ENGROSSED SECOND SUBSTITUTE HOUSE
 BILL NO. 1224
 HOUSE BILL NO. 1301
 SUBSTITUTE HOUSE BILL NO. 1652
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1667
 ENGROSSED HOUSE BILL NO. 1789
 ENGROSSED SUBSTITUTE SENATE BILL NO.
 5258
 SENATE BILL NO. 5360
 SUBSTITUTE SENATE BILL NO. 5380
 SECOND SUBSTITUTE SENATE BILL NO. 5602
 SECOND SUBSTITUTE SENATE BILL NO. 5604
 SENATE BILL NO. 5605
 ENGROSSED SUBSTITUTE SENATE BILL NO.
 5741
 SUBSTITUTE SENATE BILL NO. 5748
 SECOND SUBSTITUTE SENATE BILL NO. 5800
 SUBSTITUTE SENATE BILL NO. 5815
 SENATE BILL NO. 5817
 SECOND SUBSTITUTE SENATE BILL NO. 5846
 SUBSTITUTE SENATE BILL NO. 5861

The Speaker called upon Representative Lovick to preside.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5596, by Senators Holy and Billig

Extending the expiration date on the health sciences and services authority sales and use tax authorization.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Volz and Riccelli spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5596.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5596, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers,

Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5596, having received the necessary constitutional majority, was declared passed.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5993, by Senate Committee on Ways & Means (originally sponsored by Frockt, Billig, Liias and Hunt)

Reforming the financial structure of the model toxics control program.

The bill was read the second time.

MOTION

Representative Stokesbary moved that the House adopt the committee striking amendment by the Committee on Finance. (For Committee amendment, see Journal, Day 104, April 27, 2019).

Representatives Stokesbary and Orcutt spoke in favor of the adoption of the committee striking amendment.

Representative Tharinger spoke against the adoption of the committee striking amendment.

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of the committee striking amendment by the Committee on Finance, and the committee striking amendment was not adopted by the following vote: Yeas: 47 Nays: 51 Absent: 0 Excused: 0

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Harris, Hoff, Irwin, Jenkin, Kirby, Klippert, Kraft, Kretz, Leavitt, MacEwen, Maycumber, McCaslin, Mead, Morris, Mosbrucker, Orcutt, Paul, Rude, Schmick, Shea, Shewmake, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra, and Young

Voting nay: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson,

Griffey, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Lekanoff, Lovick, Macri, Morgan, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, and Wylie

The committee striking amendment by the Committee on Finance was not adopted.

With the consent of the House, amendments (905), (896) and (898) were withdrawn.

Amendment (913) was ruled out of order.

With the consent of the House, amendments (899), (915), (891), (892), (916), (894), (895), (900), (901), (902), (904), (890) and (903) were withdrawn.

Representative Vick moved the adoption of amendment (906):

On page 2, after line 26, insert the following:

"Sec. 102. RCW 82.21.020 and 2002 c 105 s 1 are each amended to read as follows:

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

(1) "Hazardous substance" means:

(a) Any substance that, on March 1, 2002, is a hazardous substance under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, 42 U.S.C. Sec. 9601(14), as amended by Public Law 99-499 on October 17, 1986, except that hazardous substance does not include the following noncompound metals when in solid form in a particle larger than one hundred micrometers (0.004 inches) in diameter: Antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc;

(b) Petroleum products;

(c) Any pesticide product required to be registered under section 136a of the federal insecticide, fungicide and rodenticide act, 7 U.S.C. Sec. 136 et seq., as amended by Public Law 104-170 on August 3, 1996; and

(d) Any other substance, category of substance, and any product or category of product determined by the director of ecology by rule to present a threat to human health or the environment if released into the environment. The director of ecology ~~((shall))~~ may not add or delete substances from this definition more often than twice during each calendar year. For tax purposes, changes in this definition ~~((shall))~~ take effect on the first day of the next month that is at least thirty days after the effective date of the rule. The word "product" or "products" as used in this paragraph (d) means an item or items containing both: (i) One or more substances that are hazardous substances under

(a), (b), or (c) of this subsection or that are substances or categories of substances determined under this paragraph (d) to present a threat to human health or the environment if released into the environment; and (ii) one or more substances that are not hazardous substances.

(2) "Petroleum product" means plant condensate, lubricating oil, gasoline, ~~((aviation fuel,))~~ kerosene, diesel motor fuel, benzol, fuel oil, residual oil, liquefied or liquefiable gases such as butane, ethane, and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil or aviation fuel.

(3) "Possession" means the control of a hazardous substance located within this state and includes both actual and constructive possession. "Actual possession" occurs when the person with control has physical possession. "Constructive possession" occurs when the person with control does not have physical possession. "Control" means the power to sell or use a hazardous substance or to authorize the sale or use by another.

(4) "Previously taxed hazardous substance" means a hazardous substance in respect to which a tax has been paid under this chapter and which has not been remanufactured or reprocessed in any manner (other than mere repackaging or recycling for beneficial reuse) since the tax was paid.

(5) "Wholesale value" means fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character, in accordance with rules of the department.

(6) Except for terms defined in this section, the definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

Sec. 103. RCW 82.21.040 and 2015 3rd sp.s. c 6 s 1902 are each amended to read as follows:

The following are exempt from the tax imposed in this chapter:

(1) Any successive possession of a previously taxed hazardous substance. If tax due under this chapter has not been paid with respect to a hazardous substance, the department may collect the tax from any person who has had possession of the hazardous substance. If the tax is paid by any person other than the first person having taxable possession of a hazardous substance, the amount of tax paid ~~((shall))~~ constitutes a debt owed by the first person having taxable possession to the person who paid the tax~~((-))~~;

(2) Any possession of a hazardous substance by a natural person under circumstances where the substance is used, or is to be used, for a personal or domestic purpose (and not for any business purpose) by that person or a relative of, or person residing in the same dwelling as, that person~~((-))~~;

(3) Any possession of a hazardous substance amount which is determined as minimal by the department of ecology and which is possessed by a retailer for the purpose

of making sales to ultimate consumers. This exemption does not apply to pesticide or petroleum products(-);

(4) Any possession of alumina or natural gas(-);

(5)(a) Any possession of a hazardous substance as defined in RCW 82.21.020(1)(c) that is solely for use by a farmer or certified applicator as an agricultural crop protection product and warehoused in this state or transported to or from this state, provided that the person possessing the substance does not otherwise use, manufacture, package for sale, or sell the substance in this state.

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

(i) "Agricultural crop protection product" means a chemical regulated under the federal insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec. 136 as amended as of September 1, 2015, when used to prevent, destroy, repel, mitigate, or control predators, diseases, weeds, or other pests.

(ii) "Certified applicator" has the same meaning as provided in RCW 17.21.020.

(iii) "Farmer" has the same meaning as in RCW 82.04.213.

(iv) "Manufacturing" includes mixing or combining agricultural crop protection products with other chemicals or other agricultural crop protection products.

(v) "Package for sale" includes transferring agricultural crop protection products from one container to another, including the transfer of fumigants and other liquid or gaseous chemicals from one tank to another.

(vi) "Use" has the same meaning as in RCW 82.12.010(-);

(6) Any possession of aviation fuel; and

(7) Persons or activities ((which)) that the state is prohibited from taxing under the United States Constitution."

Correct the title.

Representative Vick spoke in favor of the adoption of the amendment.

Representative Fitzgibbon spoke against the adoption of the amendment.

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of amendment (906) and the amendment was not adopted by the following vote: Yeas, 44; Nays, 54; Absent, 0; Excused, 0.

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris,

Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Morris, Mosbrucker, Orcutt, Orwall, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jenkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie. .

Amendment (906) was not adopted.

Representative Van Werven moved the adoption of amendment (897):

On page 2, line 36, after "(b)" strike "Beginning" and insert "Except as provided in (e) of this subsection (1), beginning"

On page 3, after line 27, insert the following:

"(e) If annual employment in the petroleum refining industry in Washington state declines by more than five percent from calendar year 2019 annual employment in the petroleum refining industry in Washington state, based on employment data for the prior calendar year, then beginning July 1st of the current calendar year, the rate of tax on petroleum products is seventy cents per barrel. Annual employment must be determined using employment data provided by the employment security department to the department of revenue."

Representatives Van Werven, Orcutt, Walsh and Maycumber spoke in favor of the adoption of the amendment.

Representative Peterson spoke against the adoption of the amendment.

Amendment (897) was not adopted.

With the consent of the House, amendment (893) was withdrawn.

Representative Dent moved the adoption of amendment (919):

On page 10, after line 7, insert the following:

"Sec. 401. RCW 82.42.090 and 2017 3rd sp.s. c 25 s 42 are each amended to read as follows:

(1) All moneys collected by the director from the aircraft fuel excise tax as provided in RCW 82.42.020 (~~shall~~) must be transmitted to the state treasurer and

~~((shall))~~ must be credited to the aeronautics account hereby created in the state treasury.

(2) Moneys collected from the consumer or user of aircraft fuel from either the use tax imposed by RCW 82.12.020 or the retail sales tax imposed by RCW 82.08.020 ~~((shall))~~ must be transmitted to the state treasurer and distributed as follows:

(a) An amount equivalent to imposing a one percent tax must be credited to the aeronautics account; and

(b) An amount equivalent to imposing a five and five-tenths percent tax must be credited to the state general fund.

PART V"

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

Representative Dent spoke in favor of the adoption of the amendment.

Representative Fitzgibbon spoke against the adoption of the amendment.

Amendment (919) was not adopted.

Representative Dent moved the adoption of amendment (889):

On page 30, after line 27, insert the following:

"NEW SECTION. Sec. 415. The automatic expiration date provisions of RCW 82.32.805(1)(a) do not apply to section 1902, chapter 6, Laws of 2015 3rd sp. sess."

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

FISCAL IMPACT: Unknown.

Representatives Dent, Maycumber and Schmick spoke in favor of the adoption of the amendment.

Representative Fitzgibbon spoke against the adoption of the amendment.

Amendment (889) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Fitzgibbon, Doglio and Lekanoff spoke in favor of the passage of the bill.

Representatives Orcutt, Van Werven, Klippert, Vick, Walsh, Kraft and Dufault spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5993.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5993 and the bill passed the House by the following vote: Yeas, 50; Nays, 48; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Lekanoff, Lovick, Macri, Morgan, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, Leavitt, MacEwen, Maycumber, McCaslin, Mead, Morris, Mosbrucker, Orcutt, Paul, Reeves, Rude, Schmick, Shea, Shewmake, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5993, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5362, by Senate Committee on Transportation (originally sponsored by Wilson, L., Hobbs, King and Rivers)

Addressing the creation of a deferred prosecution program for nonpayment of license fees and taxes for vehicle, vessel, and aircraft registrations. Revised for 1st Substitute: Creating a deferred finding program for nonpayment of license fees and taxes for vehicle, vessel, and aircraft registrations.

The bill was read the second time.

Representative Pellicciotti moved the adoption of the striking amendment (923):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that counties that border other states and Canada experience a significant problem of residents of Washington state who evade taxes and fees by failing to register their vehicles, aircraft, and vessels in Washington state. According to a 2007 Washington State University study, the department of revenue lost eighty million dollars over the previous five years to persons avoiding taxes and fees in this manner. It was also estimated in the study that twenty thousand vehicles

were illegally registered in Oregon to residents of Clark county, Washington. The problem has undoubtedly grown worse in the decade since the study was completed resulting in hundreds of millions of dollars in lost revenue to state and local coffers as these new residents fail to pay their fair share for public services. Moreover, a public safety risk is created when inaccurate information is provided to law enforcement or insurance companies in the event of an accident or infraction.

(2) Current statutes contain monetarily significant penalties that are appropriate given the scope of the harm. It is the intent of the legislature that law enforcement and prosecutors proceed against violators to the fullest extent of the law. In order to give them more tools and ensure compliance with the law, it is the intent of the legislature to set up a deferral program consistent with other programs in the state that allows defendants to obtain dismissal of charges if they take certain remedial steps. It is the intent of the legislature that the punishment for those who do not comply with the deferral program remain subject to current penalties.

NEW SECTION. Sec. 2. (1) Any county may set up a deferral program for persons who receive a citation for failing to register a vehicle, aircraft, or vessel under RCW 46.16A.030, 47.68.255, or 88.02.400. Under the deferral program:

(a) If the person has received a criminal citation for failure to register a vehicle under RCW 46.16A.030, an aircraft under RCW 47.68.255, or a vessel under RCW 88.02.400, the defendant may petition the court for a deferred prosecution conditioned upon the defendant completing the criteria in (b) of this subsection within ninety days of the court granting the deferral.

(b) To be eligible for a deferred prosecution under (a) of this subsection, the court shall dismiss the charge if the court receives satisfactory proof within ninety days that the person:

- (i) Has paid a five hundred dollar fine;
 - (ii) Has a valid Washington state driver's license;
- and
- (iii) Has registered the vehicle, aircraft, or vessel that was the subject of the citation.

(c) Before entering an order deferring prosecution, the court shall make specific findings that: (i) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (ii) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (iii) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (iv) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

(d) If the defendant successfully completes the conditions required under the deferred prosecution, the court shall dismiss the charges pending against the defendant.

(e) If the court finds that the defendant has not successfully completed the conditions required under the deferred prosecution, the court shall remove the defendant from deferred prosecution and enter a judgment.

(2) The deferral program described in this section does not apply to persons who have received a previous conviction or deferral for failing to register a vehicle under RCW 46.16A.030, an aircraft under RCW 47.68.255, or a vessel under RCW 88.02.400.

(3) Fines generated pursuant to the deferral program established in subsection (1) of this section shall be used by the county for the purpose of enforcement and prosecution of registration requirements under RCW 46.16A.030, 47.68.250, or 88.02.550.

Sec. 3. RCW 46.16A.030 and 2011 c 171 s 43 and 2011 c 96 s 31 are each reenacted and amended to read as follows:

(1) Vehicles must be registered as required by this chapter and must display license plates or decals assigned by the department.

(2) It is unlawful for a person to operate any vehicle on a public highway of this state without having in full force and effect a current and proper vehicle registration and displaying license plates on the vehicle.

(3) Vehicle license plates or registration certificates, whether original issues or duplicates, may not be issued or furnished by the department until the applicant makes satisfactory application for a certificate of title or presents satisfactory evidence that a certificate of title covering the vehicle has been previously issued.

(4) Failure to make initial registration before operating a vehicle on the public highways of this state is a traffic infraction. A person committing this infraction must pay a fine of five hundred twenty-nine dollars, which may not be suspended(~~(deferred)~~) or reduced. This fine is in addition to any delinquent taxes and fees that must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion. The five hundred twenty-nine dollar fine must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250.

(5) Failure to renew an expired registration before operating a vehicle on the public highways of this state is a traffic infraction.

(6) It is a gross misdemeanor for a resident, as identified in RCW 46.16A.140, to register a vehicle in another state, evading the payment of any tax or vehicle license fee imposed in connection with registration. It is punishable, in lieu of the fine in subsection (4) of this section, as follows:

- (a) For a first offense:

(i) Up to three hundred sixty-four days in the county jail;

(ii) Payment of a fine of five hundred twenty-nine dollars plus any applicable assessments, which may not be suspended(~~(, deferred,)~~) or reduced. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of one thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, which may not be suspended(~~(, deferred,)~~) or reduced; and

(iv) The delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, and which may not be suspended(~~(, deferred,)~~) or reduced;

(b) For a second or subsequent offense:

(i) Up to three hundred sixty-four days in the county jail;

(ii) Payment of a fine of five hundred twenty-nine dollars plus any applicable assessments, which may not be suspended, deferred, or reduced, except as provided in section 2 of this act. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of five thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, which may not be suspended(~~(, deferred,)~~) or reduced; and

(iv) The amount of delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, and which may not be suspended(~~(, deferred,)~~) or reduced.

(7) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

Sec. 4. RCW 47.68.255 and 2010 c 161 s 1147 are each amended to read as follows:

A person who is required to register an aircraft under this chapter and who registers an aircraft in another state or foreign country evading the Washington aircraft excise tax is guilty of a gross misdemeanor. For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, no part of which may be suspended or deferred, except as provided in section 2 of this act. Excise taxes owed and fines assessed (~~(will)~~) must be deposited in the manner provided under RCW 46.16A.030(6).

Sec. 5. RCW 88.02.400 and 2010 c 161 s 1007 are each amended to read as follows:

(1) It is a gross misdemeanor punishable as provided under chapter 9A.20 RCW for any person owning a vessel subject to taxation under chapter 82.49 RCW to:

(a) Register a vessel in another state to avoid Washington state vessel excise tax required under chapter 82.49 RCW; or

(b) Obtain a vessel dealer's license for the purpose of evading excise tax on vessels under chapter 82.49 RCW.

(2) For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, which may not be suspended or deferred, except as provided in section 2 of this act.

(3) Excise taxes owed and fines assessed must be deposited in the manner provided under RCW 46.16A.030(6).

NEW SECTION. **Sec. 6.** Section 2 of this act constitutes a new chapter in Title 10 RCW."

Correct the title.

Representatives Pellicciotti and Irwin spoke in favor of the adoption of the striking amendment.

The striking amendment (923) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Wylie, Irwin, Kraft and Harris spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5362, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5362, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton,

Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5362, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SENATE BILL NO. 6016, by Senators Liias, Rolfes and Hunt

Concerning the taxation of international investment management companies.

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Finance was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 104, April 27, 2019).

Representative Vick moved the adoption of amendment (912) to the committee striking amendment:

On page 3, line 6, after "state" insert "or the property and payroll is in excess of one million dollars annually or is part of an affiliated group that meets this requirement"

On page 4, line 36, after "distribution." strike "and"

On page 4, line 37, after "services" insert "; and (v) investment services"

On page 5, beginning on line 3, strike all of subsection (5)

Re-number the remaining subsection consecutively and correct any internal references accordingly.

Representative Vick spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Tarleton spoke against the adoption of the amendment to the committee striking amendment.

Amendment (912) to the committee striking amendment, was not adopted.

Representative Kraft moved the adoption of amendment (914) to the committee striking amendment:

On page 5, line 8, strike "nine" and insert "four"

Representatives Kraft and Orcutt spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Tarleton spoke against the adoption of the amendment to the committee striking amendment.

Amendment (914) to the committee striking amendment, was not adopted.

The committee striking amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Springer and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 6016, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 6016, as amended by the House, and the bill passed the House by the following vote: Yeas, 76; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Davis, Dent, Doglio, Dolan, Dufault, Entenman, Eslick, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Lekanoff, Lovick, MacEwen, Macri, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie and Young.

Voting nay: Representatives Boehnke, Caldier, Corry, DeBolt, Dye, Fey, Frame, Jenkin, Kraft, Kretz, Leavitt, Maycumber, McCaslin, Mead, Morris, Orcutt, Pellicciotti, Schmick, Shea, Shewmake, Walsh and Ybarra.

ENGROSSED SENATE BILL NO. 6016, as amended by the House, having received the necessary constitutional majority, was declared passed.

With the consent of the House, all bills previously acted upon were immediately transmitted to the Senate.

There being no objection, the House advanced to the seventh order of business.

THIRD READING

CONFERENCE COMMITTEE REPORT

April 26, 2019

Substitute House Bill No. 1170

Includes "New Item": YES

Mr. Speaker:

We of your Conference Committee, to whom was referred SUBSTITUTE HOUSE BILL NO. 1170, modifying

the expiration date of certain state fire service mobilization laws, have had the same under consideration and we recommend that:

All previous amendments not be adopted and that the attached striking amendment be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.43.960 and 2015 c 181 s 2 are each reenacted and amended to read as follows:

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

(1) "All risk resources" means those resources regularly provided by fire departments, fire districts, and regional fire protection service authorities required to respond to natural or man-made incidents, including but not limited to:

- (a) Wild land fires;
- (b) Landslides;
- (c) Earthquakes;
- (d) Floods; and
- (e) Contagious diseases.

(2) "Chief" means the chief of the Washington state patrol.

(3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(4) "Jurisdiction" means state, county, city, fire district, regional fire protection service authority, or port district units, or other units covered by this chapter.

(5) "Mobilization" means that all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide risk resources to either direct emergency incident assignments or to assignment in communities where resources are needed. ~~(Fire department)~~ All risk resources may not be mobilized to assist law enforcement with police activities during a civil protest or demonstration, or other exercise by the people of their constitutionally protected First Amendment rights, or other protected concerted activity, however, fire departments, fire districts, and regional fire protection service authorities are not restricted from providing medical care or aid and firefighting when mobilized for any purpose.

When mobilization is declared and authorized as provided in this chapter, all risk resources regularly provided

by fire departments, fire districts, and regional fire protection service authorities including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(6) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

(7) "State fire marshal" means the director of fire protection in the Washington state patrol.

Sec. 2. 2015 c 181 s 5 (uncodified) is repealed.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019."

On page 1, line 1 of the title, after "to" strike the remainder of the title and insert "fire service mobilization; reenacting and amending RCW 43.43.960; repealing 2015 c 181 s 5 (uncodified); providing an effective date; and declaring an emergency."

and that the bill do pass as recommended by the Conference Committee:

Senators Hunt, Hasegawa and Zeiger
Representatives Goodman, Griffey and Springer

There being no objection, the House adopted the conference committee report on SUBSTITUTE HOUSE BILL NO. 1170 and advanced the bill as recommended by the conference committee to final passage.

**FINAL PASSAGE OF HOUSE BILL AS
RECOMMENDED BY CONFERENCE
COMMITTEE**

Representatives Griffey and Goodman spoke in favor of the passage of the bill as recommended by the conference committee.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1170, as recommended by the conference committee.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1170, as recommended by the conference committee, and the bill passed the House by the following votes: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, and Young

SUBSTITUTE HOUSE BILL NO. 1170, as recommended by the conference committee, having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 27, 2019

MR. SPEAKER:

The Senate insists on its position on ENGROSSED HOUSE BILL NO. 2020 and asks the House to concur.

Sarah Bannister, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 2020 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Dolan and Walsh spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2020, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2020, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers,

Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

ENGROSSED HOUSE BILL NO. 2020, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5695, by Senate Committee on Transportation (originally sponsored by Liias, King, Zeiger, Saldaña and Kuderer)

Concerning high occupancy vehicle lane penalties.

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Transportation was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

With the consent of the House, amendment (922) was withdrawn.

Representative Irwin moved the adoption of amendment (569) to the committee striking amendment:

On page 1, after line 9, insert the following:

"**Sec. 2.** RCW 46.20.289 and 2016 c 203 s 6 are each amended to read as follows:

Except for traffic violations committed under RCW 46.61.165, the department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed to respond to a notice of traffic infraction for a moving violation, failed to appear at a requested hearing for a moving violation, violated a written promise to appear in court for a notice of infraction for a moving violation, or has failed to comply with the terms of a notice of traffic infraction, criminal complaint, or citation for a moving violation, or when the department receives notice from another state under Article IV of the nonresident violator compact under RCW 46.23.010 or from a

jurisdiction that has entered into an agreement with the department under RCW 46.23.020, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after July 1, 2005. A suspension under this section takes effect pursuant to the provisions of RCW 46.20.245, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges until the person provides evidence from the court that all penalties and restitution have been paid. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated."

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

On page 3, after line 22, insert the following:

"(e) Violations committed under this section are excluded from eligibility as a moving violation for driver's license suspension under RCW 46.20.289 when a person subsequently fails to respond to a notice of traffic infraction for this moving violation, fails to appear at a requested hearing for this moving violation, violates a written promise to appear in court for a notice of infraction for this moving violation, or fails to comply with the terms of a notice of traffic infraction for this moving violation."

Representatives Irwin and Wylie spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (569) to the committee striking amendment was adopted.

Representative Irwin moved the adoption of amendment (570) to the committee striking amendment:

On page 2, beginning on line 37 of the striking amendment, after "and" strike all material through "In" on line 38 and insert ", in"

On page 2, beginning on line 40 of the striking amendment, after "collected" strike all material through "collected" on page 3, line 3

Representatives Irwin and Valdez spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (570) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Valdez and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5695, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5695, and the bill passed the House by the following vote: Yeas, 59; Nays, 39; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Ybarra.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Hudgins, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Smith, Springer, Steele, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Young.

SUBSTITUTE SENATE BILL NO. 5695, as amended by the House, having received the necessary constitutional majority, was declared passed.

With the consent of the House, all bills previously acted upon were immediately transmitted to the Senate.

There being no objection, the House advanced to the seventh order of business.

THIRD READING

MESSAGE FROM THE SENATE

April 27, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1839 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter . . ., Laws of 2019 (section 2

of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals and to accomplish a general purpose as indicated in RCW 82.32.808(2) (e) and (f).

(3) It is the legislature's specific public policy objective to increase the fiscal stability of multipurpose sports and entertainment arenas in Washington state and thereby strengthen the economic vitality of the communities in which the arenas and practice facilities are located.

(4) To measure the effectiveness of the tax preference in achieving the specific public policy objective described in this act, the joint legislative audit and review committee must evaluate this tax preference. In evaluating the tax preference, the joint legislative audit and review committee may refer to data provided to the department of revenue.

NEW SECTION. Sec. 2. A new section is added to chapter 82.32 RCW to read as follows:

(1) Until October 1, 2019, a qualifying business may apply for a deferral of taxes on an eligible project. Application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the project, estimated or actual costs of the project, time schedules for completion and operation of the project, and other information required by the department. The department must rule on the application within sixty days.

(2) If the department approves an application for a deferral of taxes under this section, the department must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, 82.14, and 81.104 RCW. This certificate expires on the date the eligible project becomes operationally complete. The certificate may only be used for sales and use tax liability incurred after the date the department issued the certificate.

(3) A recipient of a certificate must notify the department when its eligible project is operationally complete. The department must review the qualifying business's records after the eligible project is operationally complete to ensure the correct amount of taxes has been reported and will be repaid.

(4)(a) For local sales and use taxes, the recipient of the certificate must begin paying deferred sales and use taxes in the first calendar year after the date certified by the department as the date on which the eligible project is operationally complete. The first payment is due on January 1st of the first calendar year after such certified date, with subsequent annual payments due on January 1st of the following seven years. Each payment must equal twelve and one-half percent of the tax due plus interest.

(b) For state sales and use taxes, the recipient of the certificate must repay all deferred state sales and use taxes by June 30, 2023.

(c) The department must assess interest, but not penalties, on the deferred taxes. The interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the project was certified to be operationally complete, and will accrue until the deferred taxes are repaid.

(5) The department may authorize an accelerated repayment schedule upon request of the qualifying business.

(6) The debt for taxes due is not extinguished by insolvency or other failure of the qualifying business. Transfer of ownership does not terminate the deferral if the transferee agrees in writing to be bound by the requirements of this section and receives approval from the department. If the department approves the transfer of the deferral to a transferee, such approval not to be unreasonably withheld, conditioned, or delayed, the transferee is solely liable for repayment of the deferred taxes.

(7) If the eligible project is not operationally complete within three calendar years from the date that the department issued the certificate for the project, or if at any time the department finds that the project is not eligible for a deferral under this section, the amount of taxes outstanding for the project is immediately due and payable. If taxes must be repaid under this subsection, the department must assess interest at the rate provided for delinquent taxes under this chapter retroactively to the date of issuance of the certificate, but not penalties, on amounts due under this subsection.

(8) Applications and any other information received by the department under this section are not confidential under RCW 82.32.330. This chapter applies to the administration of this section.

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

(a) "Eligible project" means a project consisting of either or both (i) a qualifying arena, associated parking structures, plazas, public spaces, and one or more tunnels connecting the arena and parking structures, or (ii) an ice hockey practice facility.

(b) "Ice hockey practice facility" means one or more contiguous structures of up to two hundred thousand square feet located within ten miles of a qualifying arena that (i) contains at least three ice rinks, and (ii) is being developed to attract a professional ice hockey franchise. An "ice hockey practice facility" may include ice rinks, spectator viewing locations, locker rooms, strength and conditioning rooms, administrative offices, retail space, food service facilities, and other amenities related to the operation of a state-of-the-art ice hockey center.

(c) "Operationally complete" means the project is capable of being used for its intended purpose as described in the application.

(d) "Personal property" means tangible personal property with a useful life of one year or more that is used in the operation of the eligible project.

(e) "Project" means the construction of new improvements, the renovation of existing improvements, the acquisition and installation of fixtures that are permanently affixed to and become a physical part of those improvements, personal property, and site preparation. "Project" includes materials used and labor and services rendered in respect to the planning, site preparation, construction, renovation, and installation.

(f) "Qualifying arena" means a multipurpose sports and entertainment facility owned by the largest city in a county with a population of at least one million five hundred thousand that is being redeveloped to attract professional ice hockey and basketball league franchises.

(g) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and has entered into a lease or occupancy agreement with the fee owner of a qualifying arena and/or ice hockey practice facility to engage in the development of an eligible project.

(h) "Site preparation" includes soil testing, site clearing and grading, demolition, or any other related activities that are initiated before construction.

(10) This section expires January 1, 2030.

NEW SECTION. Sec. 3. A new section is added to chapter 82.32 RCW to read as follows:

(1) The state treasurer must deposit the repayment of deferred state sales and use taxes due under section 2 of this act into the general fund.

(2)(a) Except as provided in (b) of this subsection (2), the state treasurer must deposit half of the repayment of deferred local sales and use taxes due under section 2 of this act into the local sales and use tax account created in RCW 82.14.050.

(b) The state treasurer must deposit the remaining half of the repayment of deferred local sales and use taxes due under section 2 of this act into the state building construction account for the exclusive purpose of funding the construction or rehabilitation of capital facilities used for youth educational programming related to discovery, experimentation, and critical thinking in the sciences. The capital facility must be located on the same premises as a qualifying arena.

(3) The state treasurer must deposit any interest assessed and accrued on taxes due pursuant to section 2(4) of this act that is part of any annual repayment as follows:

(a) Interest on state taxes must be deposited into the state general fund.

(b) Interest on local taxes must be deposited into the local sales and use tax account.

(4) In the event that an accelerated repayment schedule is authorized by the department pursuant to section 2(5) of this act, the state treasurer must deposit any amount in excess of taxes due pursuant to section 2(4) of this act into the state general fund and into the local sales and use account, with the respective amounts deposited based on the proportionate shares of the state taxes and local taxes due.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 3 of the title, after "construction;" strike the remainder of the title and insert "adding new sections to chapter 82.32 RCW; creating a new section; providing an expiration date; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1839 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives MacEwen, Sullivan, Frame, Goehner, Orcutt, Pollet and Chapman spoke in favor of the passage of the bill.

Representatives Dent, Dufault and Jenkin spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1839, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1839, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 77; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan,

Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Walen, Wilcox, Wylie and Young.

Voting nay: Representatives Caldier, DeBolt, Dent, Doglio, Dufault, Dye, Gildon, Goehner, Graham, Jenkin, Kraft, Leavitt, McCaslin, Orcutt, Pollet, Schmick, Shea, Steele, Volz, Walsh and Ybarra.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1839, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 27, 2019

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290 and asks the House to recede therefrom,

and the same is herewith transmitted.

Brad Hendrickson Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment. The rules were suspended and ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290, by Senate Committee on Ways & Means (originally sponsored by Darneille, Wellman, Kuderer, Randall, Palumbo, Das, Hasegawa, McCoy, Nguyen, Saldaña, Wilson and C.)

Eliminating the use of the valid court order exception to place youth in detention for noncriminal behavior.

Representative Senn moved the adoption of the striking amendment (921):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that it is a goal of our state to divert juveniles who have committed status offenses, behaviors that are prohibited under law only because of an individual's status as a minor, away from the juvenile justice system because a stay in detention is a predictive factor for future criminal justice system involvement. The legislature finds that Washington has been using the valid court order exception of the juvenile

justice and delinquency prevention act, a loophole in federal law allowing judges to detain status offenders for disobeying court orders, more than any other state in the country. The legislature finds that use of the valid court order exception to detain youth for acts like truancy, breaking curfew, or running away from home is counterproductive and may worsen outcomes for at-risk youth.

(2) The legislature further finds that these youth should not be confined with or treated with the same interventions as criminal offenders. The legislature also finds that studies show a disproportionality in race, gender, and socioeconomic status of youth referred to courts or detained, or both. Likewise, the legislature finds that community-based interventions are more effective at addressing underlying causes of status offenses than detention and can reduce court caseloads and lower system costs. As a result, it is the intent of the legislature to strengthen and fund community-based programs that are culturally relevant and focus on addressing disproportionality of youth of color, especially at-risk youth.

(3) The legislature finds that appropriate interventions may include secure, semi-secure, and nonsecure out-of-home placement options, community-based mentoring, counseling, family reconciliation, behavioral health services, and other services designed to support youth and families in crisis and to prevent the need for out-of-home placement. The legislature recognizes that in certain circumstances, a court may find pursuant to this act that less restrictive alternatives to secure confinement are not available or appropriate and that clear, cogent, and convincing evidence requires commitment to a secure residential program with intensive wraparound services. The legislature intends to expand the availability of such interventions statewide by July 1, 2023.

NEW SECTION. Sec. 2. A new section is added to chapter 7.21 RCW to read as follows:

(1) It is the policy of the state of Washington to eliminate the use of juvenile detention as a remedy for contempt of a valid court order for youth under chapters 13.34 and 28A.225 RCW and child in need of services petition youth under chapter 13.32A RCW.

(a) Beginning July 1, 2020, youth may not be committed to juvenile detention as a contempt sanction under chapter 13.34 RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(b) Beginning July 1, 2020, youth may not be committed to juvenile detention as a contempt sanction for child in need of services proceedings under chapter 13.32A RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(c) Beginning July 1, 2021, youth may not be committed to juvenile detention as a contempt sanction for truancy proceedings under chapter 28A.225 RCW, and a warrant may not be issued for such youth for failure to

appear at a court hearing that requires commitment of such youth to juvenile detention.

(2)(a) It is also the policy of the state of Washington to entirely phase out the use of juvenile detention as a remedy for contempt of a valid court order for at-risk youth under chapter 13.32A RCW by July 1, 2023. After this date, at-risk youth may not be committed to juvenile detention as a contempt sanction under chapter 13.32A RCW, and a warrant may not be issued for failure to appear at a court hearing that requires commitment of the at-risk youth to juvenile detention.

(b) Until July 1, 2023, any at-risk youth committed to juvenile detention as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, must be detained in such a manner so that no direct communication or physical contact may be made between the youth and any youth who is detained to juvenile detention pursuant to a violation of criminal law, unless these separation requirements would result in a youth being detained in solitary confinement.

(c) After July 1, 2023, at-risk youth may be committed to a secure residential program with intensive wraparound services, subject to the requirements under RCW 13.32A.250, as a remedial sanction for contempt under chapter 13.32A RCW or for failure to appear at a court hearing under chapter 13.32A RCW.

Sec. 3. RCW 7.21.030 and 2001 c 260 s 6 are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In cases under chapters 13.32A, 13.34, and 28A.225 RCW and subject to the requirements under RCW 13.32A.250 and 28A.225.090, commitment to juvenile

detention for a period of time not to exceed ~~((seven days))~~ seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt under chapter 13.32A, 13.34, or 28A.225 RCW, or for failure to appear at a court hearing under chapter 13.32A, 13.34, or 28A.225 RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt under chapter 13.32A, 13.34, or 28A.225 RCW, or for failure to appear at a court hearing under chapter 13.32A, 13.34, or 28A.225 RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 4. RCW 7.21.030 and 2019 c ... s 3 (section 3 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter ~~(s)~~ 13.32A(~~(-13.34,))~~ RCW and in cases under chapter 28A.225 RCW and subject to the requirements under RCW 13.32A.250 and 28A.225.090, commitment to juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A(~~(-13.34,))~~ RCW or for cases under chapter 28A.225 RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A(~~(-13.34,))~~ RCW or for cases under chapter 28A.225 RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A(~~(-13.34,))~~ RCW or for cases under chapter 28A.225 RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A(~~(-13.34,))~~ RCW or for cases under chapter 28A.225 RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 5. RCW 7.21.030 and 2019 c ... s 4 (section 4 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter 13.32A RCW (~~and in cases under chapter 28A.225 RCW~~) and subject to the requirements under RCW 13.32A.250 (~~and 28A.225.090~~), commitment to juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A RCW (~~or for cases under chapter 28A.225 RCW~~), or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW (~~or for cases under chapter 28A.225 RCW~~), the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A RCW (~~or for cases under chapter 28A.225 RCW~~), or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW (~~or for cases under chapter 28A.225 RCW~~), shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the

person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 6. RCW 7.21.030 and 2019 c ... s 5 (section 5 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter 13.32A RCW and subject to the requirements under RCW 13.32A.250, commitment to (~~juvenile detention for a period of time not to exceed seventy two hours, excluding Saturdays, Sundays, and holidays. The seventy two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction~~) a secure residential program with intensive wraparound services.

(ii) Beginning July 1, 2023, prior to committing any youth to (~~juvenile detention~~) a secure residential program with intensive wraparound services as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the

clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

~~(iii) ((Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW, shall be:~~

~~(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and~~

~~(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.~~

~~(iv))~~ Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 7. RCW 13.32A.250 and 2000 c 162 s 14 are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3)(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to ((seven days)) seventy-two hours, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

~~((4))~~ (ii) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

~~((5))~~ (4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

~~((6))~~ (5) Whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention. ((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 8. RCW 13.32A.250 and 2019 c ... s 7 (section 7 of this act) are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

- (i) Community restitution;
- (ii) Residential and nonresidential programs with intensive wraparound services;
- (iii) A requirement that the child meet with a mentor for a specified number of times; or
- (iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to seventy-two hours, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

(ii) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds

probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 9. RCW 13.32A.250 and 2019 c ... s 8 (section 8 of this act) are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

- (i) Community restitution;
- (ii) Residential and nonresidential programs with intensive wraparound services;
- (iii) A requirement that the child meet with a mentor for a specified number of times; or
- (iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement ~~((for up to seventy-two hours))~~ to a secure residential program with intensive wraparound services, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none

of the less restrictive alternatives is available. ~~((The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.))~~

(ii) A child placed in confinement for contempt under this section ~~((shall))~~ may be placed in ~~((confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county))~~ a secure crisis residential center or any program approved by the department offering secure confinement and intensive wraparound services appropriate to the needs of the child. The child may not be placed in a detention facility as defined in RCW 13.40.020. Secure residential programs with intensive wraparound services as used in this section may be defined as secure juvenile correctional facilities for the purposes of federal law only.

(c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 10. RCW 13.32A.150 and 2000 c 123 s 17 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the juvenile court shall not accept the filing of a child in need of services petition by the child or the parents or the filing of

an at-risk youth petition by the parent, unless verification is provided that the department has completed a family assessment. The family assessment shall involve the multidisciplinary team if one exists. The family assessment or plan of services developed by the multidisciplinary team shall be aimed at family reconciliation, reunification, and avoidance of the out-of-home placement of the child. ~~((If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section or the parent may proceed under RCW 13.32A.191.))~~

(2) A child or a child's parent may file with the juvenile court a child in need of services petition to approve an out-of-home placement for the child before completion of a family assessment. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition must be filed in the county where the parent resides. The petition shall allege that the child is a child in need of services and shall ask only that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve the placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an out-of-home placement under this chapter.

(3) A petition may not be filed if the child is the subject of a proceeding under chapter 13.34 RCW.

Sec. 11. RCW 13.34.165 and 2000 c 122 s 21 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in RCW 7.21.030(2)~~((&))~~.

(2) The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to ~~((seven days))~~ seventy-two hours.

(3) A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

(5)(a) Subject to (b) of this subsection, whenever the court finds probable cause to believe, based upon consideration of a motion ((for contempt)) and the information set forth in a supporting declaration, that a child ((has violated a placement order entered under this chapter)) is missing from care, the court may issue an order directing law enforcement to pick up and ((take)) return the child to ((detention)) department custody. ((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))

(b) If the department is notified of the child's whereabouts and authorizes the child's location, the court must withdraw the order directing law enforcement to pick up and return the child to department custody.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 12. RCW 13.34.165 and 2019 c ... s 11 (section 11 of this act) are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in RCW 7.21.030(2).

~~(2) ((The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to seventy two hours.~~

~~(3) A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.~~

(4)) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

~~((5))~~ (3)(a) Subject to (b) of this subsection, whenever the court finds probable cause to believe, based upon consideration of a motion and the information set forth in a supporting declaration, that a child is missing from care, the court may issue an order directing law enforcement to pick up and return the child to department custody.

(b) If the department is notified of the child's whereabouts and authorizes the child's location, the court must withdraw the order directing law enforcement to pick up and return the child to department custody.

~~((6))~~ (4) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 13. RCW 28A.225.090 and 2017 c 291 s 5 are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and

private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(2)(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than ~~((seven days))~~ seventy-two hours. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection

may not be served on a child inside of school during school hours in a location where other students are present.

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as meaningful community restitution. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

Sec. 14. RCW 28A.225.090 and 2019 c ... s 13 (section 13 of this act) are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge

any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(2)((a)) If the child fails to comply with the court order, the court may impose:

((i)) (a) Community restitution;

((ii)) (b) Nonresidential programs with intensive wraparound services;

((iii)) (c) A requirement that the child meet with a mentor for a specified number of times; or

((iv)) (d) Other services and interventions that the court deems appropriate.

~~((b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than seventy-two hours. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present.)~~

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080

shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may ~~((order the child to be subject to detention, as provided in RCW 7.21.030(2)(c), or may))~~ impose alternatives to detention ~~((such as meaningful community restitution. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW))~~ consistent with best practice models for reengagement with school.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

Sec. 15. RCW 43.185C.260 and 2018 c 58 s 61 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement~~((; or~~

~~((d) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued under this chapter or chapter 13.34 RCW or that the court has issued an order for law enforcement pick up of the child under this chapter or chapter 13.34 RCW)).~~

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) No child may be placed in a secure facility except as provided in this chapter.

Sec. 16. RCW 43.185C.265 and 2015 c 69 s 14 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 43.185C.260(1) (a) or (b) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department of ~~((social and health services))~~ children, youth, and families, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a reasonable distance of the parent's home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and

inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance if:

(i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of abuse or neglect;

(ii) It is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) There is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, request the department of ~~((social and health services))~~ children, youth, and families to accept custody of the child. If the department of ~~((social and health services))~~ children, youth, and families determines that an appropriate placement is currently available, the department of ~~((social and health services))~~ children, youth, and families shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department of ~~((social and health services))~~ children, youth, and families may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition, obtaining parental consent, or obtaining an order for placement under chapter 13.34 RCW. Upon transferring a child to the department of ~~((social and health services))~~ children, youth, and families' custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department of ~~((social and health services))~~ children, youth, and families declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth shelter. The officer shall immediately notify the department of ~~((social and health services))~~ children, youth, and families if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 43.185C.260(1)(c) ~~((or (d)))~~ shall inform the child of the reason for custody. An officer taking a child into custody under RCW 43.185C.260(1)(c) may release the child to the supervising agency, may return the child to the placement authorized by the supervising agency, or shall take the child to a designated crisis residential center ~~((s secure facility. If the secure facility is not available, not located within a reasonable distance, or full, the officer shall take the child to a semi-secure crisis residential center. An officer taking a child into custody under RCW 43.185C.260(1)(d) may place the child in a juvenile detention facility as provided in RCW 43.185C.270 or a secure facility, except that the child shall be taken to detention whenever the officer has been notified that a juvenile court has entered a detention order under this chapter or chapter 13.34 RCW)).~~

(3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 43.185C.290(6).

(4) Whenever an officer transfers custody of a child to a crisis residential center or the department of ~~((social and health services))~~ children, youth, and families, the child may reside in the crisis residential center or may be placed by the department of ~~((social and health services))~~ children, youth, and families in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.

(5) The department of ~~((social and health services))~~ children, youth, and families shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 43.185C.260 may be taken.

Sec. 17. RCW 2.56.032 and 2016 c 205 s 19 are each amended to read as follows:

(1)(a) To accurately track the extent to which courts order youth into a secure detention facility in Washington state for the violation of a court order related to a truancy, at-risk youth, or a child in need of services petition, all juvenile courts shall transmit youth-level secure detention data to the administrative office of the courts.

(b) Data may either be entered into the statewide management information system for juvenile courts or securely transmitted to the administrative office of the courts at least monthly. Juvenile courts shall provide, at a minimum, the name and date of birth for the youth, the court case number assigned to the petition, the reasons for admission to the juvenile detention facility, the date of admission, the date of exit, and the time the youth spent in secure confinement.

(c) Courts are also encouraged to report individual-level data reflecting whether a detention alternative, such as electronic monitoring, was used, and the time spent in detention alternatives.

(d) The administrative office of the courts and the juvenile court administrators must work to develop uniform data standards for detention.

(2) The administrative office of the courts shall deliver an annual statewide report to the legislature that details the number of Washington youth who are placed into detention facilities during the preceding calendar year. The first report shall be delivered by March 1, 2017, and shall detail the most serious reason for detention and youth gender, race, and ethnicity. The report must have a specific emphasis on youth who are detained for reasons relating to a truancy, at-risk youth, or a child in need of services petition. The report must:

(a) Consider the written findings described in RCW 7.21.030(2)(e)(ii)(B), and provide an analysis of the rationale and evidence used and the less restrictive options considered;

(b) Monitor the utilization of alternatives to detention;

(c) Track trends in the use of at-risk youth petitions;

(d) Track trends in the use of secure residential programs with intensive wraparound services; and

(e) Track the race and gender of youth with at-risk petitions.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1)RCW 43.185C.270 (Youth services—Officer taking child into custody—Placing in detention—Detention review hearing—Hearing on contempt) and 2015 c 69 s 15; and

(2)1998 c 296 s 35 (uncodified).

NEW SECTION. Sec. 19. Except for sections 4, 5, 6, 8, 9, 12, and 14 of this act, this necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

NEW SECTION. Sec. 20. Sections 4, 8, and 12 of this act take effect July 1, 2020.

NEW SECTION. Sec. 21. Sections 5 and 14 of this act take effect July 1, 2021.

NEW SECTION. Sec. 22. Sections 6 and 9 of this act take effect July 1, 2023."

Correct the title.

Representative Griffey moved the adoption of amendment (924) to the striking amendment (921):

On page 2, at the beginning of line 9 of the striking amendment, strike "(1)"

On page 2, beginning on line 28 of the striking amendment, strike all of subsection (2)

On page 9, beginning on line 16 of the striking amendment, after "to" strike all material through "((+))" on page 10, line 9 and insert "juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. The court may only order detention as a sanction for contempt of court in at-risk youth proceedings if no secure crisis residential

center beds are available for the child. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that no secure crisis residential center beds are available, and that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv)"

On page 14, beginning on line 31 of the striking amendment, after "confinement" strike all material through "only" on page 15, line 12 and insert "for up to seventy-two hours, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

(ii) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(iii) The court may only order detention as a sanction for contempt of court in at-risk youth proceedings if no secure crisis residential center beds are available for the child"

Representative Griffey spoke in favor of the adoption of the amendment to the striking amendment.

Representative Senn spoke against the adoption of the amendment to the striking amendment.

Amendment (924) to the striking amendment (921) was not adopted.

Representative Dent moved the adoption of amendment (927) to the striking amendment (921):

On page 5, beginning on line 1 of the striking amendment, strike all of sections 4, 5, and 6

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

On page 12, beginning on line 13 of the striking amendment, strike all of sections 8 and 9

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

On page 17, beginning on line 27 of the striking amendment, strike all of section 12

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

On page 20, beginning on line 36 of the striking amendment, strike all of sections 14, 15, and 16

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

On page 28, beginning on line 11 of the striking amendment, after "19." strike all material through "this" on line 12 and insert "This act is"

On page 28, beginning on line 16 of the striking amendment, strike all of sections 20, 21, and 22

Renumber remaining sections consecutively and correct any internal references accordingly.

Representatives Dent and Klippert spoke in favor of the adoption of the amendment to the striking amendment.

Representative Senn spoke against the adoption of the amendment to the striking amendment.

MOTION

On motion of Representative Griffey, Representative DeBolt was excused

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of amendment (927) to the striking amendment (921), and the amendment was not adopted by the following vote: Yeas: 42; Nays: 54; Absent: 1; Excused: 1

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Chapman, Corry, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Kirby, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra, and Young

Voting nay: Representatives Appleton, Bergquist, Callan, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves,

Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, and Wylie

Absent: Representative Mosbrucker

Excused: Representative DeBolt

Amendment (927) to the striking amendment (921) was not adopted.

Representative McCaslin moved the adoption of amendment (926) to the striking amendment (921):

On page 28, after line 4 of the striking amendment, insert the following:

"NEW SECTION. Sec. 18. The sum of seven hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2020, from the general fund, and the sum of seven hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2021, from the general fund to the department of commerce to provide funding for secure crisis residential centers in counties that do not currently have a secure crisis residential center."

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

Representatives McCaslin and Irwin spoke in favor of the adoption of the amendment to the striking amendment.

Representative Robinson spoke against the adoption of the amendment (926) to the striking amendment.

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of amendment (926) to the striking amendment (921), and the amendment was not adopted by the following vote: Yeas: 41; Nays: 56; Absent: 0; Excused: 1

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra, and Young

Voting nay: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, and Wylie

Excused: Representative DeBolt

Amendment (926) to the striking amendment (921) was not adopted.

Representative Klippert moved the adoption of amendment (925) to the striking amendment (921):

On page 28, line 20 of the striking amendment, after "Sec. 22." insert "(1)"

On page 28, line 21 of the striking amendment, after "2023" insert ", only if the condition described in subsection (2) of this section is satisfied.

(2) On May 1, 2023, the office of financial management must determine whether there are enough secure crisis residential center beds available at that time to serve the number of individuals detained as a court contempt sanction for an at-risk youth court proceeding based on the most recent annual at-risk youth detention information, and if so, the office of financial management must immediately provide written notice of the effective date of sections 4 and 6 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed necessary by the office of financial management"

Representative Klippert spoke in favor of the adoption of the amendment to the striking amendment.

Representative Senn spoke against the adoption of the amendment to the striking amendment.

Amendment (925) to the striking amendment (921) was not adopted.

The striking amendment (921) was adopted.

Representatives Frame, Senn and Goodman spoke in favor of the passage of the bill.

Representatives Dent, McCaslin, Klippert and Irwin spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5290, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5290, as amended by the House, and the bill passed the House by the following vote: Yeas, 55; Nays, 42; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff,

Irwin, Jenkin, Kirby, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representative DeBolt.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, the House adjourned until 10:00 a.m., April 28, 2019, the 105th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk