

## SIXTY FIFTH LEGISLATURE - REGULAR SESSION

## ONE HUNDRED FIRST DAY

House Chamber, Olympia, Wednesday, April 19, 2017

The House was called to order at 10:00 a.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 Eve China and Creed Leonard. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Imam Benjamin Shabazz, Al Islam Center, Seattle, Washington.

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

## RESOLUTION

**HOUSE RESOLUTION NO. 2017-4645, by Representatives Riccelli, Shea, Pellicciotti, Holy, Volz, Rodne, Nealey, Ormsby, MacEwen, Steele, Stonier, Sells, Kilduff, Ryu, McCaslin, Kristiansen, Orwall, Chapman, Lovick, Santos, Dolan, Orcutt, Reeves, Gregerson, Johnson, Senn, Slatter, Frame, and Harris**

WHEREAS, The Gonzaga University men's basketball team completed the NCAA Division I 2016-2017 season with 37 victories, a feat only nine teams have accomplished, and advanced to the National Championship matchup against North Carolina; and

WHEREAS, A Pacific Northwest team has not advanced to the championship since 1958; and

WHEREAS, Head Coach Mark Few earned the title of 2017 Naismith and Associated Press Men's College Coach of the Year; and

WHEREAS, Coach Few has led the Zags into the NCAA tournament in each of his 17 years as head coach. Coach Few's other accomplishments include fifteen West Coast Conference titles, five Sweet 16 appearances, two Elite Eight competitions, one Final Four matchup, and a National Championship game; and

WHEREAS, The 2016-2017 Gonzaga men's basketball team had the best defense in the nation, and won more games and scored more points than any previous Gonzaga team; and

WHEREAS, Gonzaga earned multiple number one rankings, including first in the ESPN Basketball Power Index, as well as a number 1 seed for the NCAA Tournament; and

WHEREAS, Gonzaga University student athletes have the third-highest Graduation Success Rate among all Division I schools in the nation; and

WHEREAS, Gonzaga's Nigel Williams-Goss was selected to the Wooden Award's 10-player All-America team and also received the Elite 90 Award for being the top academic achiever of any player in the Final Four; and

WHEREAS, Gonzaga's Przemek Karnowski finished his career as the NCAA Division I's all-time wins leader with 137, won the Kareem Abdul-Jabbar Award, and made the WCC All-Academic team; and

WHEREAS, Gonzaga has repeatedly committed to a culture of sportsmanship, academic excellence, and dedicated performance on the court; and

WHEREAS, The Zags' reputation as a team of close, resilient, and elite athletes made them a dominating powerhouse all the way to the National Championship game; and

WHEREAS, These extraordinary achievements have been supported by the community of Gonzaga University student body, faculty, staff, alumni, friends, family, benefactors, and fans from throughout the State of Washington; and

WHEREAS, The raucous Kennel Club, Gonzaga's famed student section, has helped the Zags men's basketball team to a record of 177 wins at home, and traveled near and far in large numbers to support their team;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives express its thanks and great pride to the players, coaches, staff, and fans of Gonzaga University basketball for their excellence in achievement both on and off the court; and

BE IT FURTHER RESOLVED, That the House of Representatives recognize the value and dedication of student athletes and the excitement and energy of collegiate athletics as a reflection of community pride and support; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the President of Gonzaga University, the Athletic Director of Gonzaga University, the coach of the Gonzaga University Bulldogs men's basketball team, and to each team member.

There being no objection, HOUSE RESOLUTION NO. 4645 was adopted.

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

**MESSAGE FROM THE SENATE**

April 18, 2017

MR. SPEAKER:

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

SUBSTITUTE SENATE BILL NO. 5100,  
SENATE BILL NO. 5336,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5338,  
SENATE BILL NO. 5437,  
ENGROSSED SENATE BILL NO. 5647,  
SENATE BILL NO. 5778,  
SUBSTITUTE SENATE BILL NO. 5790,

and the same are herewith transmitted.

Hunter G. Goodman, Secretary

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

**THIRD READING**

**MESSAGE FROM THE SENATE**

April 18, 2017

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5589 and asks the House to recede therefrom.

and the same is herewith transmitted.

Hunter Goodman, Secretary

**HOUSE AMENDMENT TO SENATE BILL**

There being no objection, the House insisted on its position in its amendment to SUBSTITUTE SENATE BILL NO. 5589 and asked the Senate to concur therein.

**MESSAGE FROM THE SENATE**

April 18, 2017

Mr. Speaker:

The Senate refuses to concur in the House amendment to SENATE BILL NO. 5762 and asks the House to recede therefrom.

and the same is herewith transmitted.

Hunter Goodman, Secretary

**HOUSE AMENDMENT TO SENATE BILL**

There being no objection, the House insisted on its position in its amendment to SENATE BILL NO. 5762 and asked the Senate to concur therein.

**MESSAGE FROM THE SENATE**

April 12, 2017

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2023 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A RCW to read as follows:

The initial effective date of an action that amends the locally adopted critical areas ordinance, amends a locally adopted shoreline master program, adds the designation of agricultural, forest, or mineral lands designated under RCW 36.70A.170, reduces a limited area of more intensive rural development designated under RCW 36.70A.070(5), or reduces density or increases minimum lot size requirements, is after the latest of the following dates:

(1) Sixty days after the date of publication of notice of adoption of the comprehensive plan, development regulation, or amendment to the plan or regulation; or

(2) If a petition for review to the growth management hearings board is timely filed, upon issuance of the board's final order."

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "and adding a new section to chapter 36.70A RCW."

and the same is herewith transmitted.

Hunter Goodman, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL 2023 and asked the Senate to recede therefrom.

With the consent of the House, ENGROSSED SUBSTITUTE HOUSE BILL NO. 2023 was immediately transmitted to the Senate.

## MESSAGE FROM THE SENATE

April 12, 2017

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1504 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that it enacted the rail preservation program because railroads provide benefits to state and local jurisdictions that are valuable to economic development, highway safety, and the environment. The Washington state freight mobility plan includes the goal of supporting rural economies farm-to-market, manufacturing, and resource industry sectors. The plan makes clear that ensuring the availability of rail capacity is vital to meeting the future needs of the Puget Sound region. Rail-served industrial sites are a necessary part of a thriving freight mobility system, and are a key means of assuring that food and goods from rural areas are able to make it to people living in urban areas and international markets. Planned and effective access to railroad services is a pivotal aspect of transportation planning. The legislature affirms that it is in the public interest to allow economic development infrastructure to occur near rail lines as a means to alleviate strains on government infrastructure elsewhere. Therefore, the legislature finds that there is a need for counties and cities to improve their planning under the growth management act to provide much needed infrastructure for freight rail dependent uses adjacent to railroad lines.

**Sec. 2.** RCW 36.70A.030 and 2012 c 21 s 1 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed,

Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(6) "Department" means the department of commerce.

(7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(8) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial

timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

(9) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(10) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

~~((10))~~ (11) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

~~((11))~~ (12) "Minerals" include gravel, sand, and valuable metallic substances.

~~((12))~~ (13) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

~~((13))~~ (14) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

~~((14))~~ (15) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

~~((15))~~ (16) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

~~((16))~~ (17) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

~~((17))~~ (18) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic

water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

~~((18))~~ (19) "Short line railroad" means those railroad lines designated Class II or Class III by the United States Surface Transportation Board.

(20) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

~~((19))~~ (21) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

~~((20))~~ (22) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

~~((21))~~ (23) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including,

but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

**Sec. 3.** RCW 36.70A.060 and 2014 c 147 s 2 are each amended to read as follows:

(1)(a) Each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Each of the following counties, and each of the cities in such counties, may adopt development regulations to assure that agriculture, forest, and mineral resource lands adjacent to short line railroads may be developed for freight rail dependent uses: Counties located to the east of the crest of the Cascade mountains; and counties located to the west of the crest of the Cascade mountains that have both a population of at least two hundred forty thousand and a border that touches another state. Any development regulations related to the development of agriculture, forest, and mineral resource lands adjacent to short line railroads for freight rail dependent uses must require buffers sufficient to prevent encroachment on or impacts to the adjacent resource lands.

(b) Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as

agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

(c) Each county that adopts a resolution of partial planning under RCW 36.70A.040(2)(b), and each city within such county, shall adopt development regulations within one year after the adoption of the resolution of partial planning to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection (1)(c) must comply with the requirements governing regulations adopted under (a) of this subsection.

(d)(i) A county that adopts a resolution of partial planning under RCW 36.70A.040(2)(b) and that is not in compliance with the planning requirements of this section, RCW 36.70A.040(4), 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution is adopted must, by January 30, 2017, apply for a determination of compliance from the department finding that the county's development regulations, including development regulations adopted to protect critical areas, and comprehensive plans are in compliance with the requirements of this section, RCW 36.70A.040(4), 36.70A.070(5), 36.70A.170, and 36.70A.172. The department must approve or deny the application for a determination of compliance within one hundred twenty days of its receipt or by June 30, 2017, whichever date is earlier.

(ii) If the department denies an application under (d)(i) of this subsection, the county and each city within is obligated to comply with all requirements of this chapter and the resolution for partial planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

(iii) A petition for review of a determination of compliance under (d)(i) of this subsection may only be appealed to the growth management hearings board

within sixty days of the issuance of the decision by the department.

(iv) In the event of a filing of a petition in accordance with (d)(iii) of this subsection, the county and the department must equally share the costs incurred by the department for defending an approval of determination of compliance that is before the growth management hearings board.

(v) The department may implement this subsection ~~((11))~~(1)(d) by adopting rules related to determinations of compliance. The rules may address, but are not limited to: The requirements for applications for a determination of compliance; charging of costs under (d)(iv) of this subsection; procedures for processing applications; criteria for the evaluation of applications; issuance and notice of department decisions; and applicable timelines.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to insure consistency.

(4) Forest land and agricultural land located within urban growth areas shall not be designated by a county or city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.

(5) The department of commerce is directed to submit a written report to the legislature by November 15th of each even-numbered year, beginning in 2022 and ending in 2032, that describes any job gains, tax impacts, and impacts to resource lands resulting from freight rail dependent uses sited under this chapter.

**Sec. 4.** RCW 36.70A.070 and 2015 c 241 s 2 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by

urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area are subject to the requirements of (d)(iv) of this subsection, but are not subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas.

Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(~~(15)~~) (16). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(~~(15)~~) (16). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment,

but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six

years. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element shall include: (a) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, workforce, housing, and natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

**Sec. 5.** RCW 36.70A.108 and 2005 c 328 s 1 are each amended to read as follows:

(1) The transportation element required by RCW 36.70A.070 may include, in addition to improvements or strategies to accommodate the impacts of development authorized under RCW 36.70A.070(6)(b), multimodal transportation improvements or strategies that are made concurrent with the development. These transportation improvements or strategies may include, but are not limited to, measures implementing or evaluating:

(a) Multiple modes of transportation with peak and nonpeak hour capacity performance standards for locally owned transportation facilities; and

(b) Modal performance standards meeting the peak and nonpeak hour capacity performance standards.

(2) The transportation element required by RCW 36.70A.070 may, for each of the following counties, and for each of the cities in such counties, include development of freight rail dependent uses on land adjacent to a short line railroad: Counties located to the east of the crest of the Cascade mountains; and counties located to the west of the crest of the Cascade mountains that have both a population of at least two hundred forty thousand and a border that touches another state. Development regulations may be modified to include development of freight rail dependent uses that do not require urban governmental services in rural lands.

(3) Nothing in this section or RCW 36.70A.070(6)(b) shall be construed as prohibiting a county or city planning under RCW 36.70A.040 from exercising existing authority to develop multimodal improvements or strategies to satisfy the concurrency requirements of this chapter.

~~((3))~~ (4) Nothing in this section is intended to affect or otherwise modify the authority of jurisdictions planning under RCW 36.70A.040."

On page 1, line 2 of the title, after "regulations;" strike the remainder of the title and insert "amending RCW 36.70A.030, 36.70A.060, 36.70A.070, and 36.70A.108; and creating a new section."

and the same is herewith transmitted.

Hunter Goodman, Secretary

## SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1504 and advanced the bill as amended by the Senate to final passage.

## FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Pike and Fitzgibbon spoke in favor of the passage of the bill, as amended by the Senate.

## MOTION

On motion of Representative Harris, Representative DeBolt was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1504, as amended by the Senate.

## ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1504, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 81; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Blake, Buys, Caldier, Chandler, Chapman, Clibborn, Cody, Condotta, Dent, Doglio, Dolan, Dye, Fitzgibbon, Frame, Graves, Gregerson, Griffey, Haler, Hansen, Hargrove, Harmsworth, Harris, Hayes, Holy, Irwin, Jenkin, Johnson, Kilduff, Kirby, Klippert, Kloba, Koster, Kraft, Kretz, Kristiansen, Lovick, Lytton, MacEwen, Manweller, Maycumber, McCabe, McCaslin, McDonald, Morris, Muri, Nealey, Orcutt, Ormsby, Orwall, Peterson, Pettigrew, Pike, Reeves, Riccelli, Robinson, Rodne, Santos, Sawyer, Schmick, Sells, Shea, Slatter, Smith, Springer, Stambaugh, Stanford, Steele, Stokesbary, Sullivan, Tarleton, Taylor, Tharinger, Van Werven, Vick, Volz, J. Walsh, Wilcox, Wylie, Young and Mr. Speaker.

Voting nay: Representatives Appleton, Bergquist, Farrell, Fey, Goodman, Hudgins, Jinkins, Kagi, Macri, McBride, Ortiz-Self, Pellicciotti, Pollet, Ryu, Senn and Stonier.

Excused: Representative DeBolt.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1504, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

## MESSAGE FROM THE SENATE

April 10, 2017

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1711 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 79.10 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, the department shall, to the extent feasible given all applicable trust responsibilities, develop and implement a policy for prioritizing investments on forest health treatments to protect state lands and state forestlands, as those terms are defined in RCW 79.02.010, to:

- (i) Reduce wildfire hazards and losses from wildfire;
- (ii) reduce insect infestation and disease; and
- (iii) achieve cumulative impact of improved forest health and resilience at a landscape scale.

(b) The prioritization policy in (a) of this subsection must consider whether state lands and state forestlands are within an area that is subject to a forest health hazard warning or order pursuant to RCW 76.06.180.

(2)(a) The department's prioritization of state lands and state forestlands must be based on an evaluation of the economic and noneconomic value of:

(i) Timber or other commercial forest products removed during any mechanical treatments;

(ii) Timber or other commercial forest products likely to be spared from damage by wildfire;

(iii) Homes, structures, agricultural products, and public infrastructure likely to be spared from damage by wildfire;

(iv) Impacts to recreation and tourism; and

(v) Ecosystem services such as water quality, air quality, or carbon sequestration.

(b) The department's evaluation of economic values may rely on heuristic techniques.

(3) The definitions in this subsection apply throughout this section and sections 2 and 3 of this act unless the context clearly requires otherwise.

(a) "Forest health" has the same meaning as defined in RCW 76.06.020.

(b) "Forest health treatment" or "treatment" means actions taken by the department to restore forest health including, but not limited to, sublandscape assessment and project planning, site preparation, reforestation, mechanical treatments including timber harvest, road realignment for fire protection and aquatic improvements, and prescribed burning.

**NEW SECTION. Sec. 2.** A new section is added to chapter 79.10 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, consistent with the prioritization policy developed pursuant to section 1 of this act, and to the extent feasible given all applicable trust responsibilities, the department must identify areas of state lands and state forestlands that would benefit from forest health treatments at the landscape level for the next twenty years, and ones that would benefit the most during the following six years, and prioritize and list specific lands for treatment during the subsequent biennium. The department shall update this list by November 15th of each even-numbered year.

(b) To expedite initial treatments under this act, for the 2017-2019 biennium the department may prioritize and, if funds are appropriated for this purpose, address lands for treatment that are currently identified by the department as pilot treatment projects.

(2) In order to develop a prioritized list that evaluates forest health treatments at a landscape scale, the department should consult with and take into account the land management plans and activities of nearby landowners, if available, including federal agencies, other state agencies, local governments, tribes, and private property owners, in addition to any statewide assessments done by the department. The department may include federally, locally, or privately managed lands on the list. The department may fund treatment on these lands provided that the treatments are funded with nontrust funds, and provided that the treatments produce a net benefit to the health of state lands and state forestlands.

(3) By December 1st of each even-numbered year, the department must submit a report to the legislature consistent with the requirements of RCW 43.01.036, to

the office of financial management, and to the board of natural resources. The report must include:

(a) A brief summary of the department's progress towards treating the state lands and state forestlands included on the preceding biennium's prioritization list;

(b) A list of lands prioritized for forest health treatments in the next biennium, including state lands and state forestlands prioritized for treatment pursuant to subsection (1) of this section;

(c) Recommended funding amounts required to carry out the treatment activities for the next biennium, including a summary of potential nontimber revenue sources that could finance specific forest health treatments pursuant to section 1 of this act, including but not limited to ecosystem services such as water and carbon sequestration as well as insurance and fire mitigation; and

(d) A summary of trends in forest health conditions.

**NEW SECTION. Sec. 3.** A new section is added to chapter 79.64 RCW to read as follows:

(1)(a) The forest health revolving account is created in the custody of the state treasurer. All receipts from the proceeds of forest health treatment sales as defined in this section and sections 1 and 2 of this act and all legislative transfers, gifts, grants, and federal funds must be deposited into the account. Expenditures from the account may be used only for the payment of costs, including management and administrative costs, incurred on forest health treatments necessary to improve forest health as defined in section 1 of this act. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The board of natural resources has oversight of the account, and the commissioner must periodically report to the board of natural resources as to the status of the account, its disbursement, and receipts. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(b) The forest health revolving account is an interest-bearing account and the interest must be credited to the account.

(2) Beginning calendar year 2018, the fund balance attributable to the receipts

from the proceeds of forest health treatment sales is subject to the following:

(a) Any unobligated amounts up to ten million dollars at the end of the calendar year are not subject to disbursements to trust beneficiaries, the resource management account, or the forest development account.

(b) Any unobligated amounts exceeding ten million dollars at the end of the calendar year must be disbursed to the appropriate trust beneficiaries as determined by the board of natural resources and these disbursements are not subject to the deductions for the resource management cost account described in RCW 79.64.040 or the forest development account described in RCW 79.64.110.

(c) If the board of natural resources determines that the department has permanently discontinued using the forest health revolving account for the forest health treatments under sections 1 and 2 of this act, the board must disburse all remaining fund balance attributable to the proceeds of forest health treatment sales to the appropriate trust beneficiaries, and these disbursements are not subject to the deductions for the resource management cost account described in RCW 79.64.040 or the forest development account described in RCW 79.64.110.

(3)(a) Except as provided in (b) and (c) of this subsection, expenditures on state lands and state forestlands for forest health treatments by the department from the forest health revolving account must be consistent with the prioritization policy under section 1 of this act and the prioritization list created under section 2 of this act.

(b) The department is not bound to adhere to the list submitted to the legislature under section 1 of this act in the event that emerging information or changed circumstances support a reprioritization of lands consistent with the policy created under section 1 of this act.

(c) The department is not required to apply the prioritization policy of section 1 of this act where doing so would be incompatible with the conditions of funding provided by the federal government or another organization that is contributing funds to forest health treatments involving the department.

**Sec. 4.** RCW 43.30.325 and 2003 c 334 s 125 and 2003 c 313 s 9 are each reenacted and amended to read as follows:

(1) The department shall deposit daily all moneys and fees collected or received by the commissioner and the department in the discharge of official duties as follows:

(a) The department shall pay moneys received as advance payments, deposits, and security from successful bidders under RCW 79.15.100 and 79.11.150 to the state treasurer for deposit under (b) of this subsection. Moneys received from unsuccessful bidders shall be returned as provided in RCW 79.11.150;

(b) The department shall pay all moneys received on behalf of a trust fund or account to the state treasurer for deposit in the trust fund or account after making the deduction authorized under RCW (~~79.22.040~~) 79.64.110, 79.22.050, 79.64.040, and 79.15.520, except as provided in section 3 of this act;

(c) The natural resources deposit fund is hereby created. The state treasurer is the custodian of the fund. All moneys or sums which remain in the custody of the commissioner of public lands awaiting disposition or where the final disposition is not known shall be deposited into the natural resources deposit fund. Disbursement from the fund shall be on the authorization of the commissioner or the commissioner's designee, without necessity of appropriation;

(d) If it is required by law that the department repay moneys disbursed under (a) and (b) of this subsection the state treasurer shall transfer such moneys, without necessity of appropriation, to the department upon demand by the department from those trusts and accounts originally receiving the moneys.

(2) Money shall not be deemed to have been paid to the state upon any sale or lease of land until it has been paid to the state treasurer.

**Sec. 5.** RCW 79.64.040 and 2015 3rd sp.s. c 4 s 972 are each amended to read as follows:

(1) The board shall determine the amount deemed necessary in order to achieve the purposes of this chapter and shall provide by rule for the deduction of this amount from the moneys received from all leases, sales, contracts, licenses, permits, easements, and rights-of-way

issued by the department and affecting state lands and aquatic lands, except as provided in section 3 of this act, provided that no deduction shall be made from the proceeds from agricultural college lands.

(2) Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.15.100, 79.15.080, and 79.11.150 prior to December 1, 1981, which have not been subjected to deduction under this section are not subject to deduction under this section.

(3) Except as otherwise provided in subsection (5) of this section, the deductions authorized under this section shall not exceed twenty-five percent of the moneys received by the department in connection with any one transaction pertaining to state lands and aquatic lands other than second-class tide and shore lands and the beds of navigable waters, and fifty percent of the moneys received by the department pertaining to second-class tide and shore lands and the beds of navigable waters.

(4) In the event that the department sells logs using the contract harvesting process described in RCW 79.15.500 through 79.15.530, the moneys received subject to this section are the net proceeds from the contract harvesting sale.

(5) During the 2013-2015 fiscal biennium, the twenty-five percent limitation on deductions set in subsection (3) of this section may be increased up to thirty percent by the board. During the 2015-2017 fiscal biennium, the board may increase the twenty-five percent limitation up to thirty-two percent.

**Sec. 6.** RCW 79.64.110 and 2015 3rd sp.s. c 4 s 973 are each amended to read as follows:

(1) Any moneys derived from the lease of state forestlands or from the sale of valuable materials, oils, gases, coal, minerals, or fossils from those lands, except as provided in section 3 of this act, or the appraised value of these resources when transferred to a public agency under RCW 79.22.060, except as provided in RCW 79.22.060(4), must be distributed as follows:

(a) For state forestlands acquired through RCW 79.22.040 or by exchange for lands acquired through RCW 79.22.040:

(i) The expense incurred by the state for administration, reforestation, and

protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board, must be returned to the forest development account created in RCW 79.64.100. During the 2015-2017 fiscal biennium, the board may increase the twenty-five percent limitation up to twenty-seven percent.

(ii) Any balance remaining must be paid to the county in which the land is located or, for counties participating in a land pool created under RCW 79.22.140, to each participating county proportionate to its contribution of asset value to the land pool as determined by the board. Payments made under this subsection are to be paid, distributed, and prorated, except as otherwise provided in this section, to the various funds in the same manner as general taxes are paid and distributed during the year of payment.

(iii) Any balance remaining, paid to a county with a population of less than sixteen thousand, must first be applied to the reduction of any indebtedness existing in the current expense fund of the county during the year of payment.

(iv) With regard to moneys remaining under this subsection (1) (a), within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date.

(b) For state forestlands acquired through RCW 79.22.010 or by exchange for lands acquired through RCW 79.22.010, except as provided in RCW 79.64.120:

(i) Fifty percent shall be placed in the forest development account.

(ii) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, to the county in which the land is located or, for counties participating in a land pool created under RCW 79.22.140, to each participating county proportionate to its contribution of asset value to the land pool as determined by the board, and according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to

the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

(2) A school district may transfer amounts deposited in its debt service fund pursuant to this section into its capital projects fund as authorized in RCW 28A.320.330.

**Sec. 7.** RCW 43.79A.040 and 2016 c 203 s 2, 2016 c 173 s 10, 2016 c 69 s 21, and 2016 c 39 s 7 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Washington advanced college tuition

payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon

each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer 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 trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

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.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2017, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "treatments;" strike the remainder of the title and insert "amending RCW 79.64.040 and 79.64.110; reenacting and amending RCW 43.30.325 and 43.79A.040; adding new sections to chapter 79.10 RCW; adding a new section to chapter 79.64 RCW; and creating a new section."

and the same is herewith transmitted.

Pablo S. Campos, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1711 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representatives Blake and Buys spoke in favor of the passage of the bill, as amended by the Senate.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1711, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1711, as amended by the Senate, 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, Buys, Caldier, Chandler, Chapman, Clibborn, Cody, Condotta, Dent, Doglio, Dolan, Dye, Farrell, Fey, Fitzgibbon, Frame, Goodman, Graves, Gregerson, Griffey, Haler, Hansen, Hargrove, Harmsworth, Harris, Hayes, Holy, Hudgins, Irwin, Jenkin, Jinkins, Johnson, Kagi, Kilduff, Kirby, Klippert, Kloba, Koster, Kraft, Kretz, Kristiansen, Lovick, Lytton, MacEwen, Macri, Manweller, Maycumber, McBride, McCabe, McCaslin, McDonald, Morris, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pike, Pollet, Reeves, Riccelli, Robinson, Rodne, Ryu, Santos, Sawyer, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stambaugh, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Taylor, Tharinger, Van Werven, Vick, Volz, J. Walsh, Wilcox, Wylie, Young and Mr. Speaker.

Excused: Representative DeBolt.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1711, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

### MESSAGE FROM THE SENATE

April 11, 2017

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1719 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.090 and 2015 3rd sp.s. c 7 s 16 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning issues that ~~((would build))~~ contribute to the ongoing efforts of building a comprehensive system of quality early learning programs and services for Washington's young children and families ((by assessing needs and the

~~availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures))~~.

(2) The council shall work in conjunction with the department to ~~((develop a statewide early learning plan that guides))~~ assist in policy development and implementation that assist the department in promoting alignment of private and public sector actions, objectives, and resources, ((and)) ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall include critical partners in service delivery and reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Councilmembers shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of ~~((not more than twenty three))~~ members essential to coordinating services statewide prenatal through age five, as follows:

(a) In addition to being staffed and supported by the department, the governor shall appoint ((at least)) one representative from each of the following: The ((department, the office of financial management, the department of social and health services, the)) department of health, the student achievement council, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint ~~((seven))~~ leaders in early childhood education to represent critical service delivery and support sectors, with at least one ((representative with experience or expertise in one or more of the areas such as)) individual representing each of

the following: (~~The K-12 system, family day care providers, and child care centers with four of the seven governor's appointees made as follows:~~)

(i) The head start state collaboration office director or the director's designee;

(ii) A representative of a head start, early head start, or migrant/seasonal head start (~~, or tribal head start~~) program;

(iii) A representative of a local education agency; (~~and~~)

(iv) A representative of the state agency responsible for programs under section 619 or part C of the federal individuals with disabilities education act;

(v) A representative of the early childhood education and assistance program;

(vi) A representative of licensed family day care providers;

(vii) A representative of child day care centers; and

(viii) A representative from the home visiting advisory committee established in RCW 43.215.130;

(d) Two members of the house of representatives, one from each caucus, (~~and two members of the senate, one from each caucus,~~) to be appointed by the speaker of the house of representatives and (~~the president of the senate, respectively~~) two members of the senate, one from each caucus, to be appointed by the majority leader in the senate and the minority leader in the senate;

(e) Two parents, one of whom serves on the department's parent advisory group, to be appointed by the governor;

(f) One representative of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative from the developmental disabilities community;

(h) Two representatives from early learning regional coalitions;

(i) Representatives of underserved communities who have a special expertise or interest in high quality early learning, one to be appointed by each of the following commissions:

(i) The Washington state commission on Asian Pacific American affairs;

(ii) The Washington state commission on African-American affairs; and

(iii) The Washington state commission on Hispanic affairs;

~~((g) One)~~ (j) Two representatives designated by sovereign tribal governments, one of whom must be a representative of a tribal early childhood education assistance program or head start program; (~~and~~

~~(h))~~ (k) One representative from the Washington federation of independent schools;

(l) One representative from the Washington library association; and

(m) One representative from a statewide advocacy coalition of organizations that focuses on early learning.

(6) The council shall be cochaired by (~~one representative of a state agency and one nongovernmental~~) two members, to be elected by the council for two-year terms and not more than one cochair may represent a state agency.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter 234, Laws of 2010.

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(9)(a) The council shall convene an early achievers review subcommittee to provide feedback and guidance on strategies to improve the quality of instruction and environment for early learning and provide input and recommendations on the implementation and refinement of the early achievers program. The review conducted by the subcommittee shall be a part of the annual progress report required in RCW 43.215.102. At a minimum the review shall address the following:

(i) Adequacy of data collection procedures;

(ii) Coaching and technical assistance standards;

(iii) Progress in reducing barriers to participation for low-income providers and providers from diverse cultural backgrounds, including a review of the early achievers program's rating tools, quality standard areas, and components, and how they are applied;

(iv) Strategies in response to data on the effectiveness of early achievers program standards in relation to providers and children from diverse cultural backgrounds;

(v) Status of the life circumstance exemption protocols; and

(vi) Analysis of early achievers program data trends.

(b) The subcommittee must include consideration of cultural linguistic responsiveness when analyzing the areas for review required by (a) of this subsection.

(c) The subcommittee shall include representatives from child care centers, family child care, the early childhood education and assistance program, contractors for early achievers program technical assistance and coaching, tribal governments, the organization responsible for conducting early ~~((achiever[s]))~~ achievers program ratings, and parents of children participating in early learning programs, including working connections child care and early childhood education and assistance programs. The subcommittee shall include representatives from diverse cultural and linguistic backgrounds.

(10) The department shall provide staff support to the council.

**Sec. 2.** RCW 43.215.130 and 2013 c 165 s 1 are each amended to read as follows:

(1)(a) The home visiting services account is created in the state treasury. Revenues to the account shall consist of appropriations by the legislature and all other sources deposited in the account. All federal funds received by the department for home visiting activities must be deposited into the account.

(b)(i) Expenditures from the account shall be used for state matching funds for the purposes of the program established in this section and federally funded activities for the home visiting program, including administrative expenses.

(ii) The department oversees the account and is the lead state agency for home visiting system development. The

nongovernmental private-public partnership ~~((administers))~~ supports the home visiting service delivery system and provides ~~((implementation))~~ support functions to funded programs.

(iii) It is the intent of the legislature that state funds invested in the account be matched ~~((at fifty percent))~~ by the private-public partnership each fiscal year. ~~((However, state funds in the account may be accessed in the event that the private public partnership fails to meet the fifty percent match target. Should the private-public partnership not meet the fifty percent match target by the conclusion of the fiscal year ending on June 30th, the department and the private public partnership, shall jointly submit a report to the relevant legislative committees detailing the reasons why the fifty percent match target was not met, the actual match rate achieved, and a plan to achieve fifty percent match in the subsequent fiscal year. This report shall be submitted as promptly as practicable, but the lack of receipt of this report shall not prevent state funds in the account from being accessed-))~~

(iv) Amounts used for program administration by the department may not exceed an average of ~~((four))~~ ten percent in any two consecutive fiscal years.

(v) Authorizations for expenditures may be given only after private funds are committed. The nongovernmental private-public partnership must report to the department quarterly to demonstrate ~~((sufficient))~~ investment of private match funds.

(c) Expenditures from the account are subject to appropriation and the allotment provisions of chapter 43.88 RCW.

(2) The department must expend moneys from the account to provide state matching funds for partnership activities to implement home visiting services and administer the infrastructure necessary to develop, support, and evaluate evidence-based, research-based, and promising home visiting programs.

(3) Activities eligible for funding through the account include, but are not limited to:

(a) Home visiting services that achieve one or more of the following: (i) Enhancing child development and well-being by alleviating the effects on child development of poverty and other known

risk factors; (ii) reducing the incidence of child abuse and neglect; or (iii) promoting school readiness for young children and their families; and

(b) Development and maintenance of the infrastructure for home visiting programs, including training, quality improvement, and evaluation.

(4) Beginning July 1, 2010, the department shall contract with the nongovernmental private-public partnership designated in RCW 43.215.070 to ~~((administer))~~ support programs funded through the home visiting services account. The department shall monitor performance and provide periodic reports on the ~~((use))~~ uses and outcomes of the home visiting services account.

(5) The ~~((nongovernmental private-public partnership))~~ department shall, in the administration of the programs:

(a) Fund programs through a competitive bid process or in compliance with the regulations of the funding source; and

(b) Convene an advisory committee of early learning and home visiting experts, including one representative from the department, to advise the partnership regarding research and the distribution of funds from the account to eligible programs."

On page 1, line 3 of the title, after "improvements;" strike the remainder of the title and insert "and amending RCW 43.215.090 and 43.215.130."

and the same is herewith transmitted.

Pablo S. Campos, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1719 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Lovick and Schmick spoke in favor of the passage of the bill, as amended by the Senate.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1719, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1719, as amended by the Senate, 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, Buys, Caldier, Chandler, Chapman, Clibborn, Cody, Condotta, Dent, Doglio, Dolan, Dye, Farrell, Fey, Fitzgibbon, Frame, Goodman, Graves, Gregerson, Griffey, Haler, Hansen, Hargrove, Harmsworth, Harris, Hayes, Holy, Hudgins, Irwin, Jenkin, Jinkins, Johnson, Kagi, Kilduff, Kirby, Klippert, Kloba, Koster, Kraft, Kretz, Kristiansen, Lovick, Lytton, MacEwen, Macri, Manweller, Maycumber, McBride, McCabe, McCaslin, McDonald, Morris, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pike, Pollet, Reeves, Riccelli, Robinson, Rodne, Ryu, Santos, Sawyer, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stambaugh, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Taylor, Tharinger, Van Werven, Vick, Volz, J. Walsh, Wilcox, Wylie, Young and Mr. Speaker.

Excused: Representative DeBolt.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1719, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 13, 2017

Mr. Speaker:

The Senate refuses to concur in the House amendment to SENATE BILL NO. 5268 and asks the House to recede therefrom,

and the same is herewith transmitted.

Paul Campos, Deputy Secretary

#### HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment. The rules were suspended and SENATE BILL NO. 5268 was returned to second reading for the purpose of amendment.

#### SECOND READING

**SENATE BILL NO. 5268, by Senators Takko, Chase, Warnick, Schoesler, King, Sheldon, Saldaña, Cleveland, Pearson, Honeyford, Hawkins, Wilson, Becker and Hasegawa**

**Concerning notice to the licensee before a concealed pistol license expires.**

Representative Jinkins moved the adoption of the striking amendment (564):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.41.070 and 2017 c ... (SHB 1100) s 1 are each amended to read as follows:

(1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045, or is prohibited from possessing a firearm under federal law;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1) (e) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2)(a) The issuing authority shall conduct a check through the national instant criminal background check system, the Washington state patrol electronic database, the department of social and health services electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from possessing a firearm under federal law, and therefore ineligible for a concealed pistol license.

(b) The issuing authority shall deny a permit to anyone who is found to be prohibited from possessing a firearm under federal or state law.

(c) This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, email address at the option of the applicant, date and place of birth, race, gender, description, a complete set of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license

to an inquiring court or law enforcement agency.

The application for an original license shall include two complete sets of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The application shall contain questions about the applicant's eligibility under RCW 9.41.040 and federal law to possess a pistol, the applicant's place of birth, and whether the applicant is a United States citizen. If the applicant is not a United States citizen, the applicant must provide the applicant's country of citizenship, United States issued alien number or admission number, and the basis on which the applicant claims to be exempt from federal prohibitions on firearm possession by aliens. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall, if applicable, meet the additional requirements of RCW 9.41.173 and produce proof of compliance with RCW 9.41.173 upon application. The license may be in triplicate or in a form to be prescribed by the department of licensing.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the federal bureau of investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;

(c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter;

(d) Two dollars and sixteen cents to the firearms range account in the general fund; and

(e) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.--- (section 2, chapter . . . (SHB 1100), Laws of 2017).

(6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter;

(c) Two dollars and sixteen cents to the firearms range account in the general fund; and

(d) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.--- (section 2, chapter . . . (SHB 1100), Laws of 2017).

(7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9) (a) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

(i) Three dollars shall be deposited in the state wildlife account and used exclusively first for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law, and subsequently the support of volunteer instructors in the basic firearms safety training program conducted by the department of fish and wildlife. The pamphlet shall be given to each applicant for a license; and

(ii) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(b) Beginning with concealed pistol licenses that expire on or after August 1, 2018, the department of licensing shall mail a renewal notice approximately ninety days before the license expiration date to the licensee at the address listed on the concealed pistol license application, or to the licensee's new address if the licensee has notified the department of licensing of a change of address. Alternatively, if the licensee provides an email address at the time of license application, the department of licensing may send the renewal notice to the licensee's email address. The notice must contain the date the concealed pistol license will expire, the amount of renewal fee, the penalty for late renewal, and instructions on how to renew the license.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

(14) Any person who, as a member of the armed forces, including the national guard and armed forces reserves, is unable to renew his or her license under subsections (6) and (9) of this section because of the person's assignment, reassignment, or deployment for out-of-state military service may renew his or her license within ninety days after the person returns to this state from out-of-state military service, if the person provides the following to the issuing authority no later than ninety days after the person's date of discharge or assignment, reassignment, or deployment back to this state: (a) A copy of the person's original order designating the specific period of assignment, reassignment, or deployment for out-of-state military service, and (b) if appropriate, a copy of the person's discharge or amended or subsequent assignment, reassignment, or deployment order back to this state. A license so renewed under this subsection (14) shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license under this subsection (14) shall pay only the renewal fee specified in subsection (6) of this section and shall not be required to pay a late renewal penalty in addition to the renewal fee.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided from the firearms range account by June 30, 2017, in the omnibus appropriations act, this act is null and void."

Correct the title.

Representatives Jinkins and Rodne spoke in favor of the adoption of the striking amendment (564).

Amendment (564) 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 Jinkins and Rodne spoke in favor of the passage of the bill, as amended by the House.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5268, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5268, 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, Buys, Caldier, Chandler, Chapman, Clibborn, Cody, Condotta, Dent, Doglio, Dolan, Dye, Farrell, Fey, Fitzgibbon, Frame, Goodman, Graves, Gregerson, Griffey, Haler, Hansen, Hargrove, Harmsworth, Harris, Hayes, Holy, Hudgins, Irwin, Jenkin, Jinkins, Johnson, Kagi, Kilduff, Kirby, Klippert, Kloba, Koster, Kraft, Kretz, Kristiansen, Lovick, Lytton, MacEwen, Macri, Manweller, Maycumber, McBride, McCabe, McCaslin, McDonald, Morris, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pike, Pollet, Reeves, Riccelli, Robinson, Rodne, Ryu, Santos, Sawyer, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stambaugh, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Taylor, Tharinger, Van Werven, Vick, Volz, J. Walsh, Wilcox, Wylie, Young and Mr. Speaker.   
 Excused: Representative DeBolt.

SENATE BILL NO. 5268, 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.

#### MESSAGE FROM THE SENATE

April 18, 2017

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5289 and asks the House to recede therefrom

and the same is herewith transmitted.

Hunter Goodman, Secretary

#### HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment. The rules were suspended and SUBSTITUTE SENATE BILL NO. 5289 was returned to second reading for the purpose of amendment.

#### SECOND READING

**SUBSTITUTE SENATE BILL NO. 5289, by Senate Committee on Transportation (originally sponsored by Senators Rivers, Liias, Miloscia, Carlyle and Kuderer**

**Modifying the infraction of and penalties for distracted driving.**

Representative Farrell moved the adoption of the striking amendment (565):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A person who uses a personal electronic device while driving a motor vehicle on a public highway is guilty of a traffic infraction and must pay a fine as provided in RCW 46.63.110(3).

(2) Subsection (1) of this section does not apply to:

(a) A driver who is using a personal electronic device to contact emergency services;

(b) The use of a system by a transit system employee for time-sensitive relay communication between the transit system employee and the transit system's dispatch services;

(c) An individual employed as a commercial motor vehicle driver who uses a personal electronic device within the scope of such individual's employment if such use is permitted under 49 U.S.C. Sec. 31136 as it existed on the effective date of this section; and

(d) A person operating an authorized emergency vehicle.

(3) The state preempts the field of regulating the use of personal electronic

devices in motor vehicles while driving, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality to regulate the use of a personal electronic device by the operator of a motor vehicle.

(4) A second or subsequent offense under this section is subject to two times the penalty amount under RCW 46.63.110.

(5) For purposes of this section:

(a) "Driving" means to operate a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. "Driving" does not include when the vehicle has pulled over to the side of, or off of, an active roadway and has stopped in a location where it can safely remain stationary.

(b) "Personal electronic device" means any portable electronic device that is capable of wireless communication or electronic data retrieval and is not manufactured primarily for hands-free use in a motor vehicle. "Personal electronic device" includes, but is not limited to, a cell phone, tablet, laptop, two-way messaging device, or electronic game. "Personal electronic device" does not include two-way radio, citizens band radio, or amateur radio equipment.

(c) "Use" or "uses" means:

(i) Holding a personal electronic device in either hand or both hands;

(ii) Using your hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; however, this does not preclude the minimal use of a finger to activate, deactivate, or initiate a function of the device;

(iii) Watching video on a personal electronic device.

**NEW SECTION. Sec. 2.** The following acts or parts of acts are each repealed:

(1) RCW 46.61.667 (Using a wireless communications device or handheld mobile telephone while driving) and 2013 c 224 s 15, 2010 c 223 s 3, & 2007 c 417 s 2; and

(2) RCW 46.61.668 (Sending, reading, or writing a text message while driving) and 2013 c 224 s 16, 2010 c 223 s 4, & 2007 c 416 s 1.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.61 RCW to read as follows:

(1)(a) It is a traffic infraction to drive dangerously distracted. Any driver who commits this infraction must be assessed a base penalty of thirty dollars.

(b) Enforcement of the infraction of driving dangerously distracted may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of a separate traffic infraction or an equivalent local ordinance.

(c) For the purposes of this section, "dangerously distracted" means a person who engages in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such motor vehicle on any highway.

(2) The additional monetary penalty imposed under this section must be deposited into the distracted driving prevention account created in subsection (3) of this section.

(3) The distracted driving prevention account is created in the state treasury. All receipts from the base penalty in subsection (1) 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 to support programs dedicated to reducing distracted driving and improving driver education on distracted driving.

**Sec. 4.** RCW 46.25.010 and 2013 c 224 s 3 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize

the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial learner's permit" (CLP) means a permit issued under RCW 46.25.052 for the purposes of behind-the-wheel training.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a [any] towed unit [or units] with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds or more), whichever is greater; or

(b) Has a gross vehicle weight rating or gross vehicle weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater; or

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a

driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) Driving while using a ~~((handheld wireless communications device [handheld mobile telephone], defined as a violation of RCW 46.61.667(1)(b)))~~ personal electronic device, defined as a violation of section 1 of this act, which includes in the activities it prohibits driving while holding a personal electronic device in either or both hands and using a hand or finger for texting, or an equivalent administrative rule or local law, ordinance, rule, or resolution;

(d) ~~((Texting, defined as a violation of RCW 46.61.668(1)(b) or an equivalent administrative rule or local law, ordinance, rule, or resolution;~~

~~(e))~~ A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

~~((f))~~ (e) Driving a commercial motor vehicle without obtaining a commercial driver's license;

~~((g))~~ (f) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic violation";

~~((h))~~ (g) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

~~((i))~~ (h) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(19) "State" means a state of the United States and the District of Columbia.

(20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(21) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

(22) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this

section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is therefore not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is therefore subject to state driver qualification requirements; or

(d) "Excepted intrastate," which means the CDL or CLP holder or applicant operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(23) "United States" means the fifty states and the District of Columbia.

(24) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that

constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

NEW SECTION. **Sec. 5.** This act takes effect January 1, 2019."

Correct the title.

Representative Farrell spoke in favor of the adoption of the striking amendment (565).

Representative Orcutt spoke against the adoption of the striking amendment (565).

Division was demanded and the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 49 - YEAS; 48 - NAYS.

Amendment (565) 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 Farrell and Hayes spoke in favor of the passage of the bill, as amended by the House.

Representative Orcutt spoke against the passage of the bill, as amended by the House.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5289, as amended by the House.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5289, as amended by the House, and the bill passed the House by the following vote: Yeas, 61; Nays, 36; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Chapman, Clibborn, Cody, Doglio, Dolan, Farrell, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Haler, Hansen, Harris, Hayes, Hudgins, Irwin, Jinkins, Johnson, Kagi, Kilduff, Kirby, Kloba, Lovick, Lytton, Macri, McBride, McCabe, McDonald, Morris, Nealey, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Reeves, Riccelli, Robinson, Ryu, Santos, Sawyer, Sells, Senn, Slatter, Smith, Springer, Stambaugh, Stanford, Stonier, Sullivan, Tarleton, Tharinger, Vick, Wylie, Young and Mr. Speaker.\par Voting nay: Representatives Bergquist, Blake, Buys, Caldier, Chandler, Condotta, Dent, Dye, Graves, Griffey, Hargrove, Harmsworth, Holy, Jenkin, Klippert, Koster, Kraft, Kretz, Kristiansen, MacEwen, Manweller, Maycumber, McCaslin, Muri, Orcutt, Pike, Rodne, Schmick, Shea, Steele, Stokesbary, Taylor, Van Werven, Volz, J. Walsh and Wilcox.\par Excused: Representative DeBolt.

SUBSTITUTE SENATE BILL NO. 5289, as amended by the House, having received the necessary constitutional majority, was declared passed.

With the consent of the House, SUBSTITUTE SENATE BILL NO. 5289 was immediately transmitted to the Senate.

The Speaker assumed the chair.

#### SIGNED BY THE SPEAKER

The Speaker signed the following bills:

SUBSTITUTE HOUSE BILL NO. 1038  
 SUBSTITUTE HOUSE BILL NO. 1055  
 SUBSTITUTE HOUSE BILL NO. 1079  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1115  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1136  
 ENGROSSED SECOND SUBSTITUTE HOUSE  
 BILL NO. 1163  
 SECOND SUBSTITUTE HOUSE BILL NO. 1170  
 SUBSTITUTE HOUSE BILL NO. 1183  
 SUBSTITUTE HOUSE BILL NO. 1184  
 SUBSTITUTE HOUSE BILL NO. 1200  
 SUBSTITUTE HOUSE BILL NO. 1273  
 SUBSTITUTE HOUSE BILL NO. 1275  
 SUBSTITUTE HOUSE BILL NO. 1279  
 SUBSTITUTE HOUSE BILL NO. 1314  
 ENGROSSED SECOND SUBSTITUTE HOUSE  
 BILL NO. 1358  
 SECOND SUBSTITUTE HOUSE BILL NO. 1402  
 SUBSTITUTE HOUSE BILL NO. 1464  
 SUBSTITUTE HOUSE BILL NO. 1467  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1594  
 ENGROSSED HOUSE BILL NO. 1595  
 SUBSTITUTE HOUSE BILL NO. 1605  
 ENGROSSED SECOND SUBSTITUTE HOUSE  
 BILL NO. 1612  
 SUBSTITUTE HOUSE BILL NO. 1641  
 SUBSTITUTE HOUSE BILL NO. 1867  
 ENGROSSED HOUSE BILL NO. 2005  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126

The Speaker called upon Representative Orwall to preside.

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

#### THIRD READING

#### MESSAGE FROM THE SENATE

April 19, 2017

Mr. Speaker:

The Senate insists on its position in the House amendment to ENGROSSED SENATE BILL NO. 5096 and asks the House for a Conference thereon. The President has

appointed the following members as Conferees: Senators King, Hobbs and Sheldon,

and the same is herewith transmitted.

Pablo S. Campos, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House granted the Senate's request for a Conference on ENGROSSED SENATE BILL NO. 5096. The Speaker appointed the following members as Conferees: Representatives Clibborn, Orcutt and Fey.

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

#### SECOND READING

**HOUSE BILL NO. 2200, by Representatives Hansen, Taylor, Smith, Buys, Harmsworth, Graves, Maycumber, J. Walsh, Kraft, Haler, Condotta, Nealey, Bergquist, Steele, Van Werven, Stonier, Macri, Farrell, Cody, Slatter, Tarleton, Senn, Kagi, Pollet, Frame, Chapman, Dye, Hudgins, Stanford, Reeves, Dent, Hayes, Ryu, Peterson, Sells, Kloba, Santos, Johnson, Fitzgibbon, Holy, Ormsby, Caldier, Sawyer, Wylie, Hargrove, Kilduff, Blake, Orcutt, Gregerson, Young, Appleton, Shea, Koster, Morris, Tharinger, Irwin, Muri, Schmick, Volz, Goodman, Clibborn, McCaslin, Pellicciotti, Doglio, Jinkins, Dolan, Kirby, Sullivan, Lytton, Kretz, Riccelli, Rodne, McBride, McCabe and Pettigrew**

#### Protecting the privacy and security of internet users.

The bill was read the second time.

There being no objection, Substitute House Bill No. 2200 was substituted for House Bill No. 2200 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2200 was read the second time.

Representative Manweller moved the adoption of amendment (560):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Broadband internet access service" or "BIAS" means a mass market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and

enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the federal communications commission finds to be providing a functional equivalent of the service described in this subsection.

(2) "Broadband internet access service provider" or "BIAS provider" means a person engaged in the provision of BIAS.

(3) "Customer" means: (a) A current or former subscriber to a BIAS; or (b) an applicant for a BIAS.

(4) "Customer proprietary information" means any of the following a BIAS provider acquires in connection with its provision of BIAS:

- (a) Content of communication;
- (b) Call detail information;
- (c) Financial information;
- (d) Health information;
- (e) Information pertaining to children;
- (f) Social security numbers;
- (g) Precise geolocation information;
- (h) Web browsing history, application usage history, and the functional equivalents of either; and
- (i) Other personally identifiable information, which consists of any information that is linked or reasonably linkable to an individual or device.

(5) "Opt-in approval" means affirmative, express customer consent to an activity under section 2 of this act, after the customer is provided appropriate notification.

NEW SECTION. **Sec. 2.** (1) Except with the opt-in approval of the customer, a BIAS provider may not:

(a) Sell or transfer customer proprietary information; or

(b) Send or display to a customer an advertisement selected to be sent or displayed based on the customer's proprietary information.

(2) A BIAS provider must solicit the approval required under subsection (1) of this section at the point of sale. A BIAS provider must obtain new approval for any changes in the actions described in subsection (1) of this section, if those changes are inconsistent with the terms or

conditions provided at the time of prior customer approval.

(3) A BIAS provider must provide access to a mechanism that is reasonably designed to be readily available and understandable for a customer to grant, deny, or withdraw approval for the BIAS provider to take any of the actions described in subsection (1) of this section. The exact notice and mechanism to obtain opt-in approval or to deny or withdraw that approval is context dependent.

(4) For the purposes of this section, "transfer" does not include the use or disclosure of customer proprietary information for the provision of internet access service from which such information is derived or the provision of services necessary to, or used in, the provision of such services.

(5) Subsection (1)(a) of this section does not apply to the sale or transfer of customer proprietary information as part of any merger, acquisition, sale of company assets, or transition of service to another provider.

NEW SECTION. **Sec. 3.** (1) A BIAS provider must not condition, or effectively condition, provision of BIAS on a customer's agreement to waive privacy rights guaranteed by law or rule, including this chapter. A BIAS provider must not terminate service or otherwise refuse to provide BIAS as a direct or indirect consequence of a customer's refusal to waive any such privacy rights.

(2) A BIAS provider that offers a financial incentive in exchange for any customer approvals described in section 2(1) of this act must provide the customer with the terms and conditions of the use of the customer proprietary information, including the type of information sought, the purposes of its use, and the categories of entities to which the information may be disclosed.

(3) For any customer that has agreed to participate in a financial incentive program as described in subsection (2) of this section, a BIAS provider must provide access to a mechanism for customers to withdraw participation from such a program at any time.

NEW SECTION. **Sec. 4.** The utilities and transportation commission is authorized to adopt rules, consistent with the purposes of this chapter, that do either or both of the following:

(1) Further define the definitions in section 1 of this act; and

(2) Prescribe appropriate notice and the form of such a notice to be provided to customers under sections 2 and 3 of this act.

NEW SECTION. **Sec. 5.** The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec. 6.** The consumer privacy and security account is created in the state treasury. All receipts from recoveries by the office of the attorney general for lawsuits related to the consumer protection act under the provisions of this chapter, or otherwise designated to this account, must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for costs incurred by the office of the attorney general in the administration and enforcement of this chapter.

NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act expire upon determination by the utilities and transportation commission that the federal government has established BIAS customer protections standards substantially equivalent to the levels of protection provided in this chapter. The utilities and transportation commission must provide notice of the expiration date of sections 1 through 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 appropriate by the utilities and transportation commission.

NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act take effect December 31, 2018.

NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act constitute a new chapter in Title 19 RCW."

Correct the title.

With the consent of the House, amendment (561) to the striking amendment (560) was withdrawn.

Representative Manweller moved the adoption of amendment (566) to the striking amendment (560):

On page 1, line 16 of the striking amendment, after "person" insert "or entity when"

On page 1, beginning on line 19 of the striking amendment, after "information" strike all material through "device" on line 32 and insert "or "customer PI" means personally identifiable sensitive information consisting of a customer's social security number, health information, information pertaining to children, financial information, precise geolocation information, or web browsing history or application usage history of a customer that includes any of the foregoing information listed in this definition that a BIAS provider acquires through its provision of BIAS"

On page 2, beginning on line 1 of the striking amendment, after "means" strike all material through "notification" on line 3 and insert "a customer's affirmative, express consent"

On page 2, beginning on line 4 of the striking amendment, after "(1)" strike all material through "act" on page 3, line 13, and insert "A BIAS provider may not sell customer proprietary information to third parties for their own purposes except with the opt-in approval of the customer.

(2) A BIAS provider must provide customers with access to a mechanism to grant or withdraw any opt-in approval for the BIAS provider to sell their customer proprietary information"

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

On page 3, beginning on line 31 of the striking amendment, after "**Sec. 7.**" strike all material through "2018" on page 4, line 6 and insert "Sections 1 through 4 of this act take effect March 1, 2019, if upon that date the utilities and transportation commission determines both of the following: 1) that the federal government has not established BIAS customer protections standards substantially equivalent to the levels of protection provided in this act; and 2) that broadband internet access service has not been classified as an information

service by the federal communications commission and there has been no other federal action granting either the federal trade commission or the federal communications commission authority to bring an enforcement action against broadband internet access service providers for the provision of broadband internet access service under section 5 of the federal trade commission act of 1914, as amended (15 U.S.C. Sec. 45), or under the Communications Act of 1934, as amended. The utilities and transportation commission must provide notice of the effective date of sections 1 through 4 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 appropriate by the utilities and transportation commission."

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 4, line 7, after "through" strike "7" and insert "4"

Representatives Manweller, Irwin and Irwin (again) spoke in favor of the adoption of the amendment (566) to the striking amendment (560).

Representative Morris spoke against the adoption of the amendment (566) to the striking amendment (560).

Amendment (566) to the striking amendment (560) was not adopted.

Representative Vick moved the adoption of amendment (567) to the striking amendment (560):

On page 2, line 1 of the amendment, after "(5)" insert "'Edge service" means any content, application, or service over the internet, or any device used for accessing any content, application, or service over the internet.

(6) "Edge service provider" means a publicly traded company and any privately held business with more than ten million dollars in gross revenue engaged in the provision of edge services.

(7) "Online service" means broadband internet access service or edge service.

(8) "

On page 2, after line 3 of the amendment, insert the following:

"(6) "Provider" means a person engaged in the provision of broadband internet access service or edge services."

On page 2, line 5 of the amendment, after "a" strike "BIAS"

On page 2, line 9 of the amendment, after "A" strike "BIAS"

On page 2, line 10 of the amendment, after "A" strike "BIAS"

On page 2, line 15 of the amendment, after "A" strike "BIAS"

On page 2, line 17 of the amendment, after "for the" strike "BIAS"

On page 2, line 30 of the amendment, after "A" strike "BIAS"

On page 2, line 31 of the amendment, after "provision of" strike "BIAS" and insert "online services"

On page 2, line 33 of the amendment, after "A" strike "BIAS"

On page 2, line 34 of the amendment, after "provide" strike "BIAS" and insert "online services"

On page 2, line 36 of the amendment, after "A" strike "BIAS"

On page 3, line 6 of the amendment, after "section, a" strike "BIAS"

#### POINT OF ORDER

Representative Tarleton requested a scope and object ruling on amendment (567) to the striking amendment (560) to Substitute House Bill No. 2200.

#### SPEAKER'S RULING

Mr. Speaker (Representative Orwall presiding): *Substitute House Bill 2200 regulates the sale and transfer of customer information and the display of advertising by broadband internet access providers.*

*Amendment 567 regulates a different type of entity that does not provide broadband internet access services.*

*The Speaker therefore finds and rules that the amendment is beyond the scope and object of the bill.*

*The point of order is well taken.*

Amendment (567) to the striking amendment (560) was not adopted.

Representative Hansen moved the adoption of amendment (562) to the striking amendment (560).

On page 2, line 28 of the striking amendment, after "sale of"

insert "all, or substantially all,"

Representatives Hansen and Smith spoke in favor of the adoption of the amendment (562) to the striking amendment (560).

Amendment (562) to the striking amendment (560) was adopted.

Representative Morris moved the adoption of amendment (563) to the striking amendment (560).

On page 3, line 17 of the striking amendment, after "RCW." strike

"A violation of this chapter" and insert "Notwithstanding the

provisions of RCW 19.86.170, a violation of this chapter, including

the violation of any rule adopted by the utilities and transportation

commission pursuant to section 4 of this act,"

On page 3, line 21 of the striking amendment, after "RCW." insert

"A violation of this chapter by a public service company providing

broadband internet access service may be subject to enforcement by the

utilities and transportation commission under Title 80 RCW."

Representatives Morris and Smith spoke in favor of the adoption of the amendment (563) to the striking amendment (560).

Amendment (563) to the striking amendment (560) was adopted.

Representatives Manweller and Morris spoke in favor of the adoption of the striking amendment (560) as amended.

Amendment (560), as amended, was adopted.

The bill was ordered engrossed.

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

Representatives Hansen, Smith, Morris, Harmsworth and McDonald 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 House Bill No. 2200.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2200, and the bill passed the House by the following vote: Yeas, 87; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Buys, Caldier, Chapman, Clibborn, Cody, Condotta, Doglio, Dolan, Dye, Farrell, Fey, Fitzgibbon, Frame, Goodman, Graves, Gregerson, Griffey, Haler, Hansen, Hargrove, Harmsworth, Harris, Hayes, Holy, Hudgins, Irwin, Jinkins, Kagi, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Lovick, Lytton, MacEwen, Macri, Manweller, Maycumber, McBride, McCabe, McCaslin, McDonald, Morris, Muri, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pike, Pollet, Reeves, Riccelli, Robinson, Rodne, Ryu, Santos, Sawyer, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stambaugh, Stanford, Steele, Stonier, Sullivan, Tarleton, Taylor, Tharinger, Van Werven, Volz, J. Walsh, Wylie, Young and Mr. Speaker.

Voting nay: Representatives Chandler, Dent, Jenkin, Johnson, Koster, Kristiansen, Nealey, Stokesbary, Vick and Wilcox.

Excused: Representative DeBolt.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2200, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Orwall presiding) called upon Representative Riccelli to preside.

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

#### MESSAGE FROM THE SENATE

April 19, 2017

Mr. Speaker:

The Senate insists on its position in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5131 and asks the House for a Conference thereon. The President has appointed the following members as Conferees: Senators Rivers, Keiser and Baumgartner.

and the same is herewith transmitted.

Pablo S Campos, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House granted the Senate's request for a Conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5131. The Speaker appointed the following members as Conferees: Representatives Sawyer, Springer and Schmick.

There being no objection, the House adjourned until 10:00 a.m., April 20, 2017, the 102nd Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk