

ONE HUNDRED FIFTH DAY

EARLY MORNING SESSION

Senate Chamber, Olympia
Sunday, April 28, 2019

The Senate was called to order at 12:45 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all senators were present.

Lieutenant Governor Habib led the Senate in the Pledge of Allegiance.

The prayer was offered by Lieutenant Governor Habib including a benediction for the four victims and four survivors of a construction accident in Seattle which occurred the previous afternoon, their families, and the first-responders.

EDITOR'S NOTE: Miss Sarah Wong, 19, of Pasadena, Calif., a freshman at Seattle Pacific University; Mr. Andrew Yoder, 31, of North Bend, an ironworker; Mr. Travis Corbet, 33, of Portland, Ore., an ironworker; and Mr. Alan Justad, 71, of Seattle, a retired City of Seattle employee, passed away on the afternoon of Saturday, April 27, 2019 from injuries received when a construction crane fell from a building rooftop to the street below in the South Lake Union neighborhood of Seattle.

The President called upon the Secretary to read the journal of the preceding day.

MOTION

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

MOTION

On motion of Senator Liias, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

April 27, 2019

E2SHB 1873 Prime Sponsor, Committee on Appropriations: Concerning the taxation of vapor products as tobacco products. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Rolfes, Chair; Wagoner; Van De Wege; Pedersen; Liias; Keiser; Hunt; Darneille; Conway; Carlyle; Billig; Braun, Ranking Member; Mullet, Capital Budget Cabinet and Palumbo.

MINORITY recommendation: Do not pass. Signed by Senators Wilson, L.; Schoesler; Hasegawa; Becker Brown, Assistant Ranking Member, Operating.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Bailey; Honeyford, Assistant Ranking Member, Capital; Rivers and Warnick.

Referred to Committee on Rules for second reading.

April 27, 2019

ESHB 2140 Prime Sponsor, Committee on Appropriations: Concerning K-12 education funding. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Billig; Carlyle; Conway; Darneille; Hasegawa; Hunt; Keiser; Liias; Palumbo; Pedersen; Van De Wege; Frockt, Vice Chair, Operating, Capital Lead Rolfes, Chair.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Mullet, Capital Budget Cabinet.

MINORITY recommendation: Do not pass. Signed by Senators Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey; Becker; Rivers; Schoesler; Wagoner; Warnick and Wilson, L.

Referred to Committee on Rules for second reading.

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E2SHB 2158 Prime Sponsor, Committee on Appropriations: Creating a workforce education investment to train Washington students for Washington jobs. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Rolfes, Chair; Palumbo; Pedersen; Frockt, Vice Chair, Operating, Capital Lead; Billig; Carlyle; Conway; Darneille; Hasegawa; Hunt; Keiser; Liias and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Senators Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey; Becker; Rivers; Schoesler; Wagoner; Warnick and Wilson, L.

Referred to Committee on Rules for second reading.

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SHB 2159 Prime Sponsor, Committee on Appropriations: Making expenditures from the budget stabilization account for declared catastrophic events. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Mullet, Capital Budget Cabinet; Billig; Carlyle; Conway; Darneille; Hasegawa; Hunt; Keiser; Liias; Palumbo; Pedersen; Rivers; Van De Wege; Wagoner; Warnick; Frockt, Vice Chair, Operating, Capital Lead Rolfes, Chair.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Schoesler; Wilson, L.; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital and Bailey.

Referred to Committee on Rules for second reading.

April 27, 2019

ESHB 2163 Prime Sponsor, Committee on Appropriations: Transferring extraordinary revenue growth from the budget stabilization account for K-12 education. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Pedersen; Palumbo; Liias; Keiser; Hunt; Hasegawa; Darneille; Conway; Carlyle; Billig; Braun, Ranking Member; Frockt, Vice Chair, Operating, Capital Lead; Rolfes, Chair; Van De Wege and Warnick.

MINORITY recommendation: Do not pass. Signed by Senators Mullet, Capital Budget Cabinet; Wilson, L.; Rivers; Becker; Bailey; Honeyford, Assistant Ranking Member, Capital Brown, Assistant Ranking Member, Operating.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Wagoner and Schoesler.

Referred to Committee on Rules for second reading.

April 27, 2019

SHB 2167 Prime Sponsor, Committee on Finance: Concerning tax revenue. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Billig; Carlyle; Conway; Darneille; Hasegawa; Hunt; Keiser; Liias; Palumbo; Pedersen; Van De Wege; Frockt, Vice Chair, Operating, Capital Lead Rolfes, Chair.

MINORITY recommendation: Do not pass. Signed by Senators Wagoner; Warnick; Wilson, L.; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey; Becker; Rivers and Schoesler.

Referred to Committee on Rules for second reading.

April 27, 2019

SHB 2168 Prime Sponsor, Committee on Finance: Concerning tax preferences. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Wagoner; Van De Wege; Rivers; Pedersen; Palumbo; Liias; Keiser; Hunt; Darneille; Conway; Carlyle; Billig; Becker; Bailey; Honeyford, Assistant Ranking Member, Capital; Brown, Assistant Ranking Member, Operating; Braun, Ranking Member; Mullet, Capital Budget Cabinet; Frockt, Vice Chair, Operating, Capital Lead; Rolfes, Chair; Warnick and Wilson, L..

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Hasegawa and Schoesler.

Referred to Committee on Rules for second reading.

MOTION

On motion of Senator Liias, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Liias, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION TO LIMIT DEBATE

Pursuant to Rule 29, on motion of Senator Liias and without objection, senators were limited to speaking but once and for no more than three minutes on each question under debate for the remainder of the day by voice vote.

PERSONAL PRIVILEGE

Senator Fortunato: "I would just like to acknowledge our citizens that have sat in the gallery all day and now a second day to participate in their governmental process. So I would like to say thank you for your commitment and to participating as citizens in the governmental process. Thank you for your commitment."

MOTION

At 12:52 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President for the purposes of a brief meeting of the Committee on Rules at the bar of the senate.

The Senate was called to order at 2:20 a.m. by President Habib.

MOTION

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

MESSAGES FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1107,
SUBSTITUTE HOUSE BILL NO. 1195,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 1224,
HOUSE BILL NO. 1301,
SUBSTITUTE HOUSE BILL NO. 1652,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1667,
ENGROSSED HOUSE BILL NO. 1789,

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 27, 2019

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5997,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5998,
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

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MR. PRESIDENT:

The House receded from its amendment to SUBSTITUTE SENATE BILL NO. 5025 and passed the bill without the House amendment.

and the same are herewith transmitted.

Nona Snell, Deputy Chief Clerk

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1406, by House Committee on Housing, Community Development & Veterans (originally sponsored by Robinson, Macri, Chapman, Valdez, Senn, Peterson, Kloba, Tharinger, Gregerson, Stanford, Walen, Doglio, Frame, Jinkins, Riccelli, Slatter, Ormsby and Santos)

Encouraging investments in affordable and supportive housing.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 82.14 RCW to read as follows:

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

(a) "Nonparticipating city" is a city that does not impose a sales and use tax in accordance with the terms of this section.

(b) "Nonparticipating county" is a county that does not impose a sales and use tax in accordance with the terms of this section.

(c) "Participating city" is a city that imposes a sales and use tax in accordance with the terms of this section.

(d) "Participating county" is a county that imposes a sales and use tax in accordance with the terms of this section.

(e) "Qualifying local tax" means the following tax sources, if the tax source is instated no later than twelve months after the effective date of this section:

(i) The affordable housing levy authorized under RCW 84.52.105;

(ii) The sales and use tax for housing and related services authorized under RCW 82.14.530, provided the city has imposed the tax at a minimum or at least half of the authorized rate;

(iii) The sales tax for chemical dependency and mental health treatment services or therapeutic courts authorized under RCW 82.14.460 imposed by a city; and

(iv) The levy authorized under RCW 84.55.050, if used solely for affordable housing.

(2)(a) A county or city legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this section.

(b) The tax under this section is assessed on the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(c) The rate of the tax under this section for an individual participating city and an individual participating county may not exceed:

(i) Beginning on the effective date of this section until twelve

months after the effective date of this section:

(A) 0.0073 percent for a:

(I) Participating city, unless the participating city levies a qualifying local tax; and

(II) Participating county, within the limits of nonparticipating cities within the county and within participating cities that do not currently levy a qualifying tax;

(B) 0.0146 percent for a:

(I) Participating city that currently levies a qualifying local tax;

(II) Participating city if the county in which it is located declares they will not levy the sales and use tax authorized under this section or does not adopt a resolution in accordance with this section; and

(III) Participating county within the unincorporated areas of the county and any city that declares they will not levy the sales and use tax authorized under this section or does not adopt a resolution in accordance with this section;

(ii) Beginning twelve months after the effective date of this section:

(A) 0.0073 percent for a:

(I) Participating city that is located within a participating county if the participating city is not levying a qualifying local tax; and

(II) Participating county, within the limits of a participating city if the participating city is not levying a qualifying local tax;

(B) 0.0146 percent within the limits of a:

(I) Participating city that is levying a qualifying local tax; and

(II) Participating county within the unincorporated area of the county and within the limits of any nonparticipating city that is located within the county.

(d) A county may not levy the tax authorized under this section within the limits of a participating city that levies a qualifying local tax.

(e)(i) In order for a county or city legislative authority to impose the tax under this section, the authority must adopt:

(A) A resolution of intent to adopt legislation to authorize the maximum capacity of the tax in this section within six months of the date in which this section takes effect; and

(B) Legislation to authorize the maximum capacity of the tax in this section within one year of the date on which this section takes effect.

(ii) Adoption of the resolution of intent and legislation requires simple majority approval of the enacting legislative authority.

(iii) If a county or city has not adopted a resolution of intent in accordance with the terms of this section, the county or city may not authorize, fix, and impose the tax.

(3) The tax imposed under this section must be deducted from the amount of tax otherwise required to be collected or paid to the department of revenue under chapter 82.08 or 82.12 RCW. The department must perform the collection of such taxes on behalf of the county or city at no cost to the county or city.

(4) By December 31, 2019, or within thirty days of a county or city authorizing the tax under this section, whichever is later, the department must calculate the maximum amount of tax distributions for each county and city authorizing the tax under this section as follows:

(a) The maximum amount for a participating county equals the taxable retail sales within the county in state fiscal year 2019 multiplied by the tax rate imposed under this section. If a county imposes a tax authorized under this section after a city located in that county has imposed the tax, the taxable retail sales within the city in state fiscal year 2019 must be subtracted from the taxable retail sales within the county for the calculation of the maximum amount; and

(b) The maximum amount for a city equals the taxable retail

sales within the city in state fiscal year 2019 multiplied by the tax rate imposed under subsection (1) of this section.

(5) The tax must cease to be distributed to a county or city for the remainder of any fiscal year in which the amount of tax exceeds the maximum amount in subsection (4) of this section. The department must remit any annual tax revenues above the maximum to the state treasurer for deposit in the general fund. Distributions to a county or city meeting the maximum amount must resume at the beginning of the next fiscal year.

(6)(a) If a county has a population greater than four hundred thousand or a city has a population greater than one hundred thousand, the moneys collected or bonds issued under this section may only be used for the following purposes:

(i) Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services under RCW 71.24.385; or

(ii) Funding the operations and maintenance costs of new units of affordable or supportive housing.

(b) If a county has a population of four hundred thousand or less or a city has a population of one hundred thousand or less, the moneys collected under this section may only be used for the purposes provided in (a) of this subsection or for providing rental assistance to tenants.

(7) The housing and services provided pursuant to subsection (6) of this section may only be provided to persons whose income is at or below sixty percent of the median income of the county or city imposing the tax.

(8) In determining the use of funds under subsection (6) of this section, a county or city must consider the income of the individuals and families to be served, the leveraging of the resources made available under this section, and the housing needs within the jurisdiction of the taxing authority.

(9) To carry out the purposes of this section including, but not limited to, financing loans or grants to nonprofit organizations or public housing authorities, the legislative authority of the county or city imposing the tax has the authority to issue general obligation or revenue bonds within the limitations now or hereafter prescribed by the laws of this state, and may use, and is authorized to pledge, the moneys collected under this section for repayment of such bonds.

(10) A county or city may enter into an interlocal agreement with one or more counties, cities, or public housing authorities in accordance with chapter 39.34 RCW. The agreement may include, but is not limited to, pooling the tax receipts received under this section, pledging those taxes to bonds issued by one or more parties to the agreement, and allocating the proceeds of the taxes levied or the bonds issued in accordance with such interlocal agreement and this section.

(11) Counties and cities imposing the tax under this section must report annually to the department of commerce on the collection and use of the revenue. The department of commerce must adopt rules prescribing content of such reports. By December 1, 2019, and annually thereafter, and in compliance with RCW 43.01.036, the department of commerce must submit a report annually to the appropriate legislative committees with regard to such uses.

(12) The tax imposed by a county or city under this section expires twenty years after the date on which the tax is first imposed.

(13) If House Bill No. 1923 is enacted by the legislature, beginning on the date that House Bill No. 1923 takes effect, a city with a population over twenty thousand may no longer impose the tax authorized in this section if such city fails to take action to qualify by April 1, 2021, for a planning grant from the department of commerce under RCW 36.70A.--- (section 1, chapter . . . (HB

1923), Laws of 2019)."

On page 1, line 2 of the title, after "housing;" strike the remainder of the title and insert "and adding a new section to chapter 82.14 RCW."

MOTION

Senator Liias moved that the following amendment no. 825 by Senator Liias be adopted:

On page 5, beginning on line 13, strike all of subsection (13)

Senators Liias and Zeiger spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of amendment no. 825 by Senator Liias on page 5, line 13 to the committee striking amendment.

The motion by Senator Liias carried and amendment no. 825 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Substitute House Bill No. 1406.

The motion by Senator Kuderer carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

On motion of Senator Kuderer, the rules were suspended, Substitute House Bill No. 1406 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kuderer, Zeiger and Frockt spoke in favor of passage of the bill.

Senators Fortunato and Ericksen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1406 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1406 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hobbs, Holy, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hasegawa, Hawkins, Honeyford, King, Padden, Schoesler, Short, Wagoner and Wilson, L.

Excused: Senator Sheldon

SUBSTITUTE HOUSE BILL NO. 1406, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and

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Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1107,
SUBSTITUTE HOUSE BILL NO. 1195,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 1224,
HOUSE BILL NO. 1301,
SUBSTITUTE HOUSE BILL NO. 1652,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1667,
and ENGROSSED HOUSE BILL NO. 1789.

MOTION

At 2:30 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 2:40 a.m. by President Habib.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2158, by House Committee on Appropriations (originally sponsored by Hansen, Tarleton, Ormsby, Sullivan, Robinson, Bergquist, Slatter, Pollet, Valdez, Sells, Tharinger, Ortiz-Self, Appleton, Dolan, Macri, Senn, Thai, Kloba, Goodman, Stanford and Orwall)

Creating a workforce education investment to train Washington students for Washington jobs.

The measure was read the second time.

MOTION

Senator Holy moved that the following amendment no. 836 by Senator Holy be adopted:

On page 3, line 1, after "account." strike all material through "appropriation."

Beginning on page 3, line 11, strike all of sections 3 through 80 and insert the following:

"NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW to read as follows:

The legislature intends to secure additional revenue via surcharges targeted towards certain industries including select advanced computing businesses.

The legislature intends the provisions of this act to be applied broadly in favor of application of the surcharges. To achieve this intent, any provision within this act that is deemed to be ambiguous by a court of competent jurisdiction, the board of tax appeals, or any other judicial or administrative body, should be construed in favor of application of the surcharges.

(1)(a) Beginning with business activities occurring on or after January 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on specified persons. The surcharge is equal to the total amount of tax payable by the person on business activities taxed under RCW 82.04.290(2), before application of any tax credits, multiplied by the rate of twenty percent.

(b) For specified persons who report under one or more tax classifications, this surcharge applies only to business activities taxed under RCW 82.04.290(2).

(c) The surcharge imposed under this subsection (1) must be

reported and paid in a manner and frequency as required by the department.

(2) For the purposes of this section, "specified person" means a person who is not subject to the surcharge under subsection (4) of this section and who is primarily engaged within this state in any combination of the following activities:

(a) Computer software publishing or publishing and reproduction. Establishments in this industry carry out operations necessary for producing and distributing computer software, such as designing, providing documentation, assisting in installation, and providing support services to software purchasers. These establishments may design, develop, and publish, or publish only. These establishments may publish and distribute software remotely through subscriptions and downloads;

(b) Conducting original investigation undertaken on a systematic basis to gain new knowledge or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes. Techniques may include modeling and simulation. The industries within this industry group are defined on the basis of the domain of research and on scientific expertise of the establishment;

(c) Putting capital at risk in the process of underwriting securities issues or in making markets for securities and commodities and those acting as agents or brokers between buyers and sellers of securities and commodities, usually charging a commission;

(d) Providing expertise in the field of information technologies through one or more of the following activities: (i) Writing, modifying, testing, and supporting computer software to meet the needs of a particular customer; (ii) planning and designing computer systems that integrate computer hardware, computer software, and communication technologies; (iii) on-site management and operation of clients' computer systems and data processing facilities; or (iv) other professional and technical computer-related advice and services;

(e) Performing central banking functions, such as issuing currency, managing the nation's money supply and international reserves, holding deposits that represent the reserves of other banks and other central banks, and acting as a fiscal agent for the central government;

(f)(i) Purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services, except satellite, to businesses and households; (ii) providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation; (iii) providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems; or (iv) providing internet access services or voice over internet protocol services via client-supplied telecommunications connections. Establishments in this industry do not operate as telecommunications carriers. Mobile virtual network operators are included in this industry;

(g)(i) Acting as principals in buying or selling financial contracts, except investment bankers, securities dealers, and commodity contracts dealers; (ii) acting as agents or brokers, except securities brokerages and commodity contracts brokerages, in buying or selling financial contracts; or (iii) providing other investment services except securities and commodity exchanges, such as portfolio management, investment advice, and trust, fiduciary, and custody services;

(h) Supplying information, such as news reports, articles, pictures, and features, to the news media. This industry comprises

establishments primarily engaged in providing library or archive services. These establishments are engaged in maintaining collections of documents and facilitating the use of these documents as required to meet the informational, research, educational, or recreational needs of their user. These establishments may also acquire, research, store, preserve, and generally make accessible to the public historical documents, photographs, maps, audio material, audiovisual material, and other archival material of historical interest. All or portions of these collections may be accessible electronically. This industry comprises establishments engaged in: (i) Publishing and broadcasting content on the internet exclusively; or (ii) operating web sites that use a search engine to generate and maintain extensive databases of internet addresses and content in an easily searchable format, known as web search portals. The publishing and broadcasting establishments in this industry do not provide traditional versions of the content they publish or broadcast. They provide textual, audio, or video content of general or specific interest on the internet exclusively. Establishments known as web search portals often provide additional internet services, such as email, connections to other web sites, auctions, news, and other limited content, and serve as a home base for internet users. This industry comprises establishments primarily engaged in providing other information services, except news syndicates, libraries, archives, internet publishing and broadcasting, and web search portals;

(i) Architectural, engineering, and related services, such as drafting services, building inspection services, geophysical surveying and mapping services, surveying and mapping, except geophysical services and testing services;

(j) Retailing all types of merchandise using nonstore means, such as catalogs, toll-free telephone numbers, electronic media, such as interactive television or the internet, or selling directly to consumers in a nonretail, physical environment. Included in this industry are establishments primarily engaged in retailing from catalog showrooms of mail-order houses;

(k) Providing advice and assistance to businesses and other organizations on management, environmental, scientific, and technical issues;

(l) Providing infrastructure for hosting or data processing services. These establishments may provide specialized hosting activities, such as web hosting, streaming services, or application hosting, or they may provide general time-share mainframe facilities to clients. Data processing establishments provide complete processing and specialized reports from data supplied by clients or provide automated data processing and data entry services;

(m) Facilitating credit intermediation by performing activities, such as arranging loans by bringing borrowers and lenders together and clearing checks and credit card transactions;

(n) Offering legal services, such as those offered by offices of lawyers, offices of notaries, and title abstract and settlement offices, and paralegal services;

(o) Operating or providing access to transmission facilities and infrastructure that they own or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including voice over internet protocol services, wired audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry;

(p) Providing telecommunications services to other

establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications;

(q) Operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless internet access, and wireless video services;

(r) Extending credit or lending funds raised by credit market borrowing, such as issuing commercial paper or other debt instruments or by borrowing from other financial intermediaries;

(s) Underwriting annuities and insurance policies and investing premiums to build up a portfolio of financial assets to be used against future claims. Direct insurance carriers are establishments that are primarily engaged in initially underwriting and assuming the risk of annuities and insurance policies. Reinsurance carriers are establishments that are primarily engaged in assuming all or part of the risk associated with an existing insurance policy originally underwritten by another insurance carrier. Industries are defined in terms of the type of risk being insured against, such as death, loss of employment because of age or disability, or property damage. Contributions and premiums are set on the basis of actuarial calculations of probable payouts based on risk factors from experience tables and expected investment returns on reserves;

(t) Merchant wholesale distribution of photographic equipment and supplies and office, computer, and computer peripheral equipment and medical, dental, hospital, ophthalmic, and other commercial and professional equipment and supplies;

(u) Operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature. These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers;

(v) Publishing newspapers, magazines, other periodicals, books, directories and mailing lists, and other works, such as calendars, greeting cards, and maps. These works are characterized by the intellectual creativity required in their development and are usually protected by copyright. Publishers distribute or arrange for the distribution of these works. Publishing establishments may create the works in-house, or contract for, purchase, or compile works that were originally created by others. These works may be published in one or more formats, such as print or electronic form, including proprietary electronic networks. Establishments in this industry may print, reproduce, or offer direct access to the works themselves or may arrange with others to carry out such functions. Establishments that both print and publish may fill excess capacity with commercial or job printing. However, the publishing activity is still considered to be the primary activity of these establishments;

(w) Generating, transmitting, or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (i) Operate generation facilities that produce electric energy; (ii) operate transmission systems that convey the electricity from the generation facility to the distribution system; or (iii) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer;

(x) Providing specialized design services including interior design, industrial design, graphic design, and others, but not including architectural, engineering, and computer systems design;

(y) Assigning rights to assets, such as patents, trademarks,

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brand names, or franchise agreements, for which a royalty payment or licensing fee is paid to the asset holder;

(z) Acting as agents in selling annuities and insurance policies or providing other employee benefits and insurance related services, such as claims adjustment and third-party administration;

(aa) Business-to-business electronic markets that bring together buyers and sellers of goods using the internet or other electronic means and generally receive a commission or fee for the service. Business-to-business electronic markets for durable and nondurable goods are included in this industry. This industry comprises wholesale trade agents and brokers acting on behalf of buyers or sellers in the wholesale distribution of goods. Agents and brokers do not take title to the goods being sold but rather receive a commission or fee for their service. Agents and brokers for all durable and nondurable goods are included in this industry;

(bb) Accepting deposits or share deposits and in lending funds from these deposits. Within this group, industries are defined on the basis of differences in the types of deposit liabilities assumed and in the nature of the credit extended;

(cc)(i) Manufacturing complete aircraft, missiles, or space vehicles; (ii) manufacturing aerospace engines, propulsion units, auxiliary equipment or parts; (iii) developing and making prototypes of aerospace products; (iv) aircraft conversion; or (v) complete aircraft or propulsion systems overhaul and rebuilding;

(dd) Advertising, public relations, and related services, such as media buying, independent media representation, outdoor advertising, direct mail advertising, advertising material distribution services, and other services related to advertising;

(ee) Providing services, such as auditing of accounting records, designing accounting systems, preparing financial statements, developing budgets, preparing tax returns, processing payrolls, bookkeeping, and billing;

(ff) The independent practice of general or specialized medicine or surgery by businesses comprised of one or more health practitioners having the degree of doctor of medicine or doctor of osteopathy. These practitioners operate private or group practices in their own offices or in the facilities of others, such as hospitals or health maintenance organization medical centers;

(gg) Providing a range of outpatient services, such as family planning, diagnosis and treatment of mental health disorders and alcohol and other substance abuse, and other general or specialized outpatient care by businesses with medical staff;

(hh) Pooling securities or other assets, except insurance and employee benefit funds, on behalf of shareholders, unit holders, or beneficiaries, by legal entities such as investment pools or funds;

(ii) Promoting the interests of an organization's members, except religious organizations, social advocacy organizations, and civic and social organizations. Examples of establishments in this industry are business associations, professional organizations, labor unions, and political organizations;

(jj) Holding the securities of or other equity interests in companies and enterprises for the purpose of owning a controlling interest or influencing management decisions or businesses that administer, oversee, and manage other establishments of the company or enterprise and that normally undertake the strategic or organizational planning and decision-making role of the company or enterprise. Establishments that administer, oversee, and manage may hold the securities of the company or enterprise;

(kk) For medical and diagnostic laboratories, providing analytic or diagnostic services, including body fluid analysis and diagnostic imaging, generally to the medical profession or to the patient on referral from a health practitioner;

(ll) Serving as offices of chief executives and their advisory

committees and commissions. This industry includes offices of the president, governors, and mayors, in addition to executive advisory commissions. This industry comprises government establishments serving as legislative bodies and their advisory committees and commissions. Included in this industry are legislative bodies, such as congress, state legislatures, and advisory and study legislative commissions. This industry comprises government establishments primarily engaged in public finance, taxation, and monetary policy. Included are financial administration activities, such as monetary policy, tax administration and collection, custody and disbursement of funds, debt and investment administration, auditing activities, and government employee retirement trust fund administration. This industry comprises government establishments serving as councils and boards of commissioners or supervisors and such bodies where the chief executive is a member of the legislative body itself. This industry comprises American Indian and Alaska Native governing bodies. Establishments in this industry perform legislative, judicial, and administrative functions for their American Indian and Alaska Native lands. Included in this industry are American Indian and Alaska Native councils, courts, and law enforcement bodies. This industry comprises government establishments primarily engaged in providing general support for government. Such support services include personnel services, election boards, and other general government support establishments that are not classified elsewhere in public administration;

(mm) Providing a range of office administrative services, such as financial planning, billing and recordkeeping, personnel, and physical distribution and logistics, for others on a contract or fee basis. These establishments do not provide operating staff to carry out the complete operations of a business;

(nn) Providing professional, scientific, or technical services including marketing research, public opinion polling, photographic services, translation and interpretation services, and veterinary services. This category does not include legal services, accounting, tax preparation, bookkeeping, architectural, engineering, and related services, specialized design services, computer systems design, management, scientific and technical consulting services, scientific research and development services, or advertising services;

(oo) The independent practice of general or specialized dentistry or dental surgery by businesses comprised of one or more health practitioners having the degree of doctor of dental medicine, doctor of dental surgery, or doctor of dental science. These practitioners operate private or group practices in their own offices or in the facilities of others, such as hospitals or health maintenance organization medical centers. They may provide either comprehensive preventive, cosmetic, or emergency care, or specialize in a single field of dentistry;

(pp) The independent practice of general or specialized medicine or surgery, or general or specialized dentistry or dental surgery, by businesses comprised of one or more independent health practitioners, other than physicians and dentists;

(qq) Providing ambulatory health care services.

(3)(a)(i) For the purposes of this section, a person is primarily engaged within this state in any combination of the activities described in subsection (2) of this section if more than fifty percent of the person's cumulative gross amount reportable under this chapter during the entire current or immediately preceding calendar year was generated from engaging in any one or more of the activities described in subsection (2) of this section. For purposes of this subsection, "gross amount reportable" means the total value of products, gross proceeds of sales, and gross income of the business, reportable to the department before application of

any tax deductions.

(i) If a person was not primarily engaged within this state in any combination of the activities described in subsection (2) of this section during the immediately preceding year, and the person is unsure whether the person will be subject to the workforce investment surcharge for the current calendar year until the close of the current calendar year, the person must, if necessary, file corrected returns with the department of revenue to pay any additional tax due under this section for the current calendar year. Payment of additional tax, along with corrected returns, is due and payable when the person's last return for the calendar year during which the tax liability accrued is due and payable. Additional tax due under this section is subject to penalties and interest as provided under chapter 82.32 RCW only if the tax is not paid in full by the date due as provided in this subsection (3)(a)(ii).

(b) The entire amount of gross income of the business received by a person pursuant to a contract under which the person is obligated to perform any activity described under subsection (2) of this section is deemed to be generated from engaging in any one or more of the activities described in subsection (2) of this section.

(4)(a) Beginning with business activities occurring on or after January 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on select advanced computing businesses as follows:

(i) For an affiliated group that has worldwide gross revenue of more than twenty-five billion dollars, but not more than one hundred billion dollars, during the entire current or immediately preceding calendar year, the surcharge is equal to the total amount of tax payable by each member of the affiliated group on all business activities taxed under RCW 82.04.290(2), before application of any tax credits, multiplied by the rate of thirty-three and one-third percent.

(ii) For an affiliated group that has worldwide gross revenue of more than one hundred billion dollars during the entire current or immediately preceding calendar year, the surcharge is equal to the total amount of tax payable by each member of the affiliated group on all business activities taxed under RCW 82.04.290(2), before application of any tax credits, multiplied by the rate of sixty-six and two-thirds percent.

(b) In no case will the combined surcharge imposed under this subsection (4) paid by all members of an affiliated group be less than four million dollars or more than seven million dollars annually.

(c) For persons subject to the surcharge imposed under this subsection (4) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).

(d) The surcharge imposed under this subsection (4) must be reported and paid in a manner and frequency as required by the department.

(e) To aid in the effective administration of the surcharge in this subsection (4), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge. If the department determines that a person, with intent to evade the surcharge under this subsection (4), did not carry to fully comply with this subsection (4)(e), the seven million dollar limitation in (b) of this subsection (4) does not apply to the person's affiliated group.

(f) For the purposes of this subsection (4) the following definitions apply:

(i) "Advanced computing" means designing or developing

computer software or computer hardware, whether directly or contracting with another person, including modifications to computer software or computer hardware, cloud computing services, or operating an online marketplace, an online search engine, or online social networking platform;

(ii) "Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;

(iv) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(vi) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the entire current or immediately preceding calendar year. A person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced computing business.

(5) The workforce education investment surcharges under this section do not apply to any hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(6) Revenues from the surcharges under this section must be deposited directly into the workforce education investment account established in section 2 of this act.

(7) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharges imposed in this section. The department's determination that a person is subject to the surcharge is presumed to be correct unless the person shows by clear, cogent, and convincing evidence that the department's determination was incorrect.

(8) Revenue from the workforce education investment surcharges shall be transferred to the workforce education investment account established in section 2 of this act. With the funds provided by the transfer to the workforce education investment account, the office of financial management shall allocate to the state board for community and technical colleges and to each of the four-year institutions of higher education an amount that is equal to the net revenue loss from resident undergraduate tuition operating fees based on state-supported full-time equivalent enrollment received for the 2017-2019 fiscal biennium under RCW 28B.15.067. The net revenue loss shall be adjusted for inflation in subsequent biennia.

(9) As used in this section and RCW 28B.15.069, "inflation" shall be based on the consumer price index, using the official current base, compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people and covering areas exclusively within the

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boundaries of the state shall be used.

Sec. 4. RCW 28B.15.067 and 2015 3rd sp.s. c 36 s 3 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Beginning in the 2011-12 academic year and through the 2014-15 academic year, reductions or increases in full-time tuition fees shall be as provided in the omnibus appropriations act for resident undergraduate students at community and technical colleges.

(3)(a) In the 2015-16 and 2016-17 academic years, tuition operating fees for resident undergraduates at community and technical colleges excluding applied baccalaureate degrees as defined in RCW 28B.50.030, shall be five percent less than the 2014-15 academic year tuition operating fee.

(b) Beginning in the 2019-20 academic year, tuition operating fees for resident undergraduates at community and technical colleges shall be twenty-five percent less than the 2018-19 academic year tuition operating fees.

(c) Beginning in the ~~((2017-18))~~ 2020-21 academic year, tuition operating fees for resident undergraduates at community and technical colleges excluding applied baccalaureate degrees as defined in RCW 28B.50.030, may increase by no more than the average annual percentage growth rate in the median hourly wage for Washington for the previous fourteen years as the wage is determined by the federal bureau of labor statistics.

(4) The governing boards of the state universities, regional universities, and The Evergreen State College; and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including nonresident students, summer school students, and students in other self-supporting degree programs. Percentage increases in full-time tuition may exceed the fiscal growth factor. Except during the 2013-2015 fiscal biennium, the state board for community and technical colleges may pilot or institute differential tuition models. The board may define scale, scope, and rationale for the models.

(5)(a) Beginning with the 2011-12 academic year and through the end of the 2014-15 academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College may reduce or increase full-time tuition fees for all students, including summer school students and students in other self-supporting degree programs. Percentage increases in full-time tuition fees may exceed the fiscal growth factor. Reductions or increases may be made for all or portions of an institution's programs, campuses, courses, or students; however, during the 2013-2015 fiscal biennium, reductions or increases in tuition must be uniform among resident undergraduate students.

(b) Prior to reducing or increasing tuition for each academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College shall consult with existing student associations or organizations with student undergraduate and graduate representatives regarding the impacts of potential tuition increases. Each governing board shall make public its proposal for tuition and fee increases twenty-one days before the governing board of the institution considers adoption and allow opportunity for public comment. However, the requirement to make public a proposal for tuition and fee increases twenty-one days before the governing board considers adoption shall not apply if the omnibus appropriations act has not passed the legislature by May 15th. Governing boards shall be required to provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(c) Prior to reducing or increasing tuition for each academic

year, the state board for community and technical college system shall consult with existing student associations or organizations with undergraduate student representation regarding the impacts of potential tuition increases. The state board for community and technical colleges shall provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(6)(a) In the 2015-16 academic year, full-time tuition operating fees for resident undergraduates for state universities, regional universities, The Evergreen State College, and applied baccalaureate degrees as defined in RCW 28B.50.030 shall be five percent less than the 2014-15 academic year tuition operating fee.

(b) Beginning with the 2016-17 academic year, full-time tuition operating fees for resident undergraduates for:

(i) State universities shall be fifteen percent less than the 2014-15 academic year tuition operating fee; and

(ii) Regional universities, The Evergreen State College, and applied baccalaureate degrees as defined in RCW 28B.50.030 shall be twenty percent less than the 2014-15 academic year tuition operating fee.

(c) In the 2019-20 academic year, full-time tuition operating fees for resident undergraduates for state universities, regional universities, and The Evergreen State College shall be twenty-five percent less than the 2018-19 academic year tuition operating fee.

(d) Beginning with the ~~((2017-18))~~ 2020-21 academic year, full-time tuition operating fees for resident undergraduates in (b) of this subsection may increase by no more than the average annual percentage growth rate in the median hourly wage for Washington for the previous fourteen years as the wage is determined by the federal bureau of labor statistics.

(7) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

(8) The tuition fees established under this chapter shall not apply to eligible students enrolling in a dropout reengagement program through an interlocal agreement between a school district and a community or technical college under RCW 28A.175.100 through 28A.175.110.

(9) The legislative advisory committee to the committee on advanced tuition payment established in RCW 28B.95.170 shall:

(a) Review the impact of differential tuition rates on the funded status and future unit price of the Washington advanced college tuition payment program; and

(b) No later than January 14, 2013, make a recommendation to the appropriate policy and fiscal committees of the legislature regarding how differential tuition should be addressed in order to maintain the ongoing solvency of the Washington advanced college tuition payment program.

(10) As a result of any changes in tuition under section 3, chapter 36, Laws of 2015 3rd sp. sess., the governing boards of the state universities, the regional universities, and The Evergreen State College shall not reduce resident undergraduate enrollment below the 2014-15 academic year levels."

On page 1, beginning on line 2 of the title, after "jobs;" strike all material through "dates" on line 21 and insert "amending RCW 28B.15.067; adding a new section to chapter 43.79 RCW; adding a new section to chapter 82.04 RCW; and creating a new section"

The President declared the question before the Senate to be the adoption of amendment no. 836 by Senator Holy on page 3, line 1 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Holy did not carry and amendment no.

836 was not adopted by voice vote.

MOTION

Senator Becker moved that the following amendment no. 837 by Senator Becker be adopted:

On page 8, after line 13, insert the following:

"(8) \$1,000,000, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2020, from the workforce education investment account and \$1,000,000, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2021, from the workforce education investment account provided solely for the nurse educator incentive grant program established in section 73 of this act."

On page 80, after line 26, insert the following:

"NEW SECTION. Sec. 73. A new section is added to chapter 28B.50 RCW to read as follows:

(1) The nurse educator incentive grant program is established. The program shall be administered by the college board. In administering the program, the college board shall:

(a) Verify nurse educators who are eligible to participate in the program;

(b) Adopt rules and develop guidelines to administer the program;

(c) Coordinate with the community and technical colleges, professional associations, and the student achievement council to publicize the program, particularly to maximize participation among individuals in shortage areas and among populations expected to experience the greatest growth in the workforce; and

(d) Accept grants and donations from public and private sources for the program.

(2) Nurse educators employed by a Washington state community or technical college are eligible to participate in the program immediately after commencing their employment as a nurse educator for a college.

(3) Each participant is eligible for a maximum benefit amount equal to the total cost of tuition fees for an approved doctorate of nursing program or educational doctorate in nursing leadership.

(4) Incentive grant payments under the program shall begin no later than ninety days after a nurse educator has become a participant. Subject to the rules deemed appropriate by the college board, incentive grant payments shall be made to the participant until:

(a) The maximum benefit amount has been reached; or

(b) The participant becomes ineligible due to discontinued service as a nurse educator on behalf of a Washington state community or technical college.

(5) The college board may provide incentive grants to eligible participants from the funds appropriated for this purpose or from any private or public funds given to the college board for this purpose. Funds appropriated for the program, including reasonable administrative costs, may be used by the college board for the purposes of program administration.

(6) For the purposes of this section:

(a) "Nurse educator" means a person who teaches nursing candidates within a nursing program at a state community or technical college.

(b) "Participant" means a nurse educator who has earned a doctorate from an approved program, is a Washington resident, received an incentive grant, and commenced practice as a nurse educator at a state community or technical college.

(c) "Program" means the nurse educator incentive grant program.

(d) "Tuition fees" has the same meaning as in RCW

28B.15.020."

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

On page 1, line 13 of the title, after "28B.145 RCW;" strike all material through "section" and insert "adding new sections"

Senators Becker and Fortunato spoke in favor of adoption of the amendment.

Senator Rolfes spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 837 by Senator Becker on page 8, after line 13 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Becker did not carry and amendment no. 837 was not adopted by voice vote.

MOTION

Senator Holy moved that the following amendment no. 835 by Senator Holy be adopted:

On page 16, line 34, after "office;" strike "and"

On page 16, line 36, after "institution" insert "; and

(f) Must not have been convicted of a felony"

Senator Holy spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 835 by Senator Holy on page 16, line 34 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Holy did not carry and amendment no. 835 was not adopted by voice vote.

MOTION

Senator Brown moved that the following amendment no. 838 by Senator Brown be adopted:

On page 18, after line 25, insert the following:

"(3) For students who are dependents of active duty military members, the first twenty-five thousand dollars of the family's income may not be considered when determining the student's income eligibility."

Senator Brown spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 838 by Senator Brown on page 18, after line 25 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Brown did not carry and amendment no. 838 was not adopted by voice vote.

POINT OF ORDER

Senator Padden: "I understand that people in the gallery are taking pictures against the rules that I believe you've established, and the policy you've established. Maybe you could instruct them?"

RULING BY THE PRESIDENT

President Habib: "Senator Padden, under the ruling that I issued earlier in the session, photos from the galleries are permitted as long as they are done in a manner that is respectful and not disruptive to the Senate. So, especially given the fact that we were not doing anything at that moment, it is hard to see how we were being disrupted. But I will ask that members of the public and/or staff that take photos be aware of the restrictions and the policy and the Sergeant At Arms is certainly aware and enforcing

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those. Thank you.”

MOTION

Senator Carlyle moved that the following amendment no. 842 by Senators Carlyle and Braun be withdrawn:

Beginning on page 83, line 34, strike all of section 74 and insert the following:

"NEW SECTION. Sec. 74. A new section is added to chapter 82.04 RCW to read as follows:

(1) Beginning July 1, 2019, an additional rate of tax of 0.3 percent is added to the rate provided for in RCW 82.04.255, 82.04.285, and 82.04.290(2)(a).

(2) The additional rate in subsection (1) of this section does not apply to persons engaging within this state in business as a hospital. "Hospital" has the meaning provided in chapter 70.41 RCW but also includes any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(3) Revenues received from the additional rate in this section must be deposited into the workforce education investment account created in section 2 of this act.

Sec. 75. RCW 82.04.4451 and 2010 1st sp.s. c 23 s 1102 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed against the amount of tax otherwise due under this chapter, as provided in this section. Except for taxpayers that report at least fifty percent of their taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum credit for a taxpayer for a reporting period is ~~((thirty-five))~~ one hundred dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045. For a taxpayer that reports at least fifty percent of its taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum credit for a reporting period is ~~((seventy))~~ three hundred seventy-five dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045.

(2) When the amount of tax otherwise due under this chapter is equal to or less than the maximum credit, a credit is allowed equal to the amount of tax otherwise due under this chapter.

(3) When the amount of tax otherwise due under this chapter exceeds the maximum credit, a reduced credit is allowed equal to twice the maximum credit, minus the tax otherwise due under this chapter, but not less than zero.

(4) The department may prepare a tax credit table consisting of tax ranges using increments of no more than five dollars and a corresponding tax credit to be applied to those tax ranges. The table shall be prepared in such a manner that no taxpayer will owe a greater amount of tax by using the table than would be owed by performing the calculation under subsections (1) through (3) of this section. A table prepared by the department under this subsection must be used by all taxpayers in taking the credit provided in this section."

On page 1, line 8 of the title, after "28B.115.070," strike "and 28B.15.621" and insert "28B.15.621, and 82.04.4451"

Senator Braun objected to the motion by Senator Carlyle.

The President declared the question before the Senate to be the motion that amendment no. 842 by Senators Carlyle and Braun on page 83, line 34 to Engrossed Second Substitute House Bill No. 2158 be withdrawn.

The motion by Senator Carlyle did not carry and amendment no. 842 was not withdrawn by a rising vote.

Senator Braun moved that the amendment by Senators Carlyle and Braun, no. 842, be adopted:

Senators Braun, Rivers and Fortunato spoke in favor of adoption of the amendment.

Senators Rolfes and Billig spoke against adoption of the amendment.

POINT OF INQUIRY

Senator Mullet: "I noticed you mentioned this could simplify the evening. I was curious as I was reading through this stack of amendments after this one if this amendment were to hang does that mean some of the other amendments would ..., we wouldn't have to go through all those I guess?"

Senator Braun: "Yes, in fact I think most of them if not all of them would go away. Good question. Thank you."

Senator Braun demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Carlyle and Braun on page 83, line 34 to Engrossed Second Substitute House Bill No. 2158.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Carlyle and the amendment, having failed to receive a majority, was not adopted by the following vote: Yeas, 24; Nays, 24; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Braun, Brown, Erickson, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Mullet, O'Ban, Padden, Palumbo, Rivers, Salomon, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Takko, Van De Wege, Wellman and Wilson, C.

Excused: Senator Sheldon.

The President voted nay.

MOTION

Senator Rivers moved that the following amendment no. 841 by Senator Rivers be adopted:

On page 84, beginning on line 1, strike all material through "surcharges." on line 6

On page 94, beginning on line 34, strike all of subsection (7)

Senators Rivers and Short spoke in favor of adoption of the amendment.

Senator Rolfes spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 841 by Senator Rivers on page 84, line 1 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Rivers did not carry and amendment no. 841 was not adopted by voice vote.

MOTION

Senator Pedersen moved that the following amendment no. 887 by Senator Pedersen be adopted:

On page 84, line 6, after "surcharges." insert "The rule of statutory construction in favor of the application of the surcharge under this paragraph does not apply on or after January 1, 2022."

Senator Pedersen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 887 by Senator Pedersen on page 84, line 6 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Pedersen carried and amendment no. 887 was adopted by voice vote.

MOTION

Senator Rivers moved that the following amendment no. 886 by Senator Rivers be adopted:

On page 84, on line 10, after "equal to" strike all material through "percent" on line 13 and insert "the gross income of the business subject to tax under RCW 82.04.290(2) multiplied by the rate of 0.3 percent"

Senator Rivers spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 886 by Senator Rivers on page 84, line 10 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Rivers did not carry and amendment no. 886 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following amendment no. 843 by Senator Rivers be adopted:

On page 84, beginning on line 24, strike all of subsection (2)(a) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators Rivers and Fortunato spoke in favor of adoption of the amendment.

Senator Rolfes spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 843 by Senator Rivers on page 84, line 24 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Rivers did not carry and amendment no. 843 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following amendment no. 881 by Senator Wagoner be adopted:

On page 84, beginning on line 32, strike all of subsection (2)(b) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Wagoner spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 881 by Senator Wagoner on page 84, line 32 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Wagoner did not carry and amendment no. 881 was not adopted by voice vote.

MOTION

Senator Warnick moved that the following amendment no. 844 by Senator Warnick be adopted:

Beginning on page 84, line 39, strike all of subsection (2)(c) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Warnick spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 844 by Senator Warnick on page 84, line 39 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Warnick did not carry and amendment no. 844 was not adopted by voice vote.

MOTION

Senator Becker moved that the following amendment no. 845 by Senator Becker be adopted:

On page 85, beginning on line 3, strike all of subsection (2)(d) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Becker spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 845 by Senator Becker on page 85, line 3 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Becker did not carry and amendment no. 845 was not adopted by voice vote.

MOTION

Senator Brown moved that the following amendment no. 846 by Senator Brown be adopted:

On page 85, beginning on line 12, strike all of subsection (2)(e) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Brown spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 846 by Senator Brown on page 85, line 12 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Brown did not carry and amendment no. 846 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following amendment no. 847 by Senator Rivers be adopted:

On page 85, beginning on line 17, strike all of subsection (2)(f) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Rivers spoke in favor of adoption of the amendment.

Senator Zeiger demanded a roll call.

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

MOTION

On motion of Senator Wilson, C., Senator Mullet was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rivers on page 85, line 17 to Engrossed Second Substitute House Bill No. 2158.

adoption of amendment no. 849 by Senator Warnick on page 86, line 25 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Warnick did not carry and amendment no. 849 was not adopted by voice vote.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Rivers and the amendment was not adopted by the following vote: Yeas, 20; Nays, 27; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Braun, Brown, Erickson, Fortunato, Hawkins, Holy, Honeyford, King, O’Ban, Padden, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Excused: Senators Mullet and Sheldon.

MOTION

Senator Wilson, L. moved that the following amendment no. 850 by Senator Wilson, L. be adopted:

On page 86, beginning on line 29, strike all of subsection (2)(j) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Wilson, L. spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 850 by Senator Wilson, L. on page 86, line 29 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Wilson, L. did not carry and amendment no. 850 was not adopted by voice vote.

MOTION

Senator Honeyford moved that the following amendment no. 848 by Senator Honeyford be adopted:

On page 85, beginning on line 31, strike all of subsection (2)(g) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 848 by Senator Honeyford on page 85, line 31 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Honeyford did not carry and amendment no. 848 was not adopted by voice vote.

MOTION

Senator Becker moved that the following amendment no. 851 by Senator Becker be adopted:

On page 86, beginning on line 35, strike all of subsection (2)(k) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Becker spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 851 by Senator Becker on page 86, line 35 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Becker did not carry and amendment no. 851 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following amendment no. 882 by Senator Wagoner be adopted:

Beginning on page 85, line 39, strike all of subsection (2)(h) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Wagoner spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 882 by Senator Wagoner on page 85, line 39 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Wagoner did not carry and amendment no. 882 was not adopted by voice vote.

MOTION

Senator Warnick moved that the following amendment no. 852 by Senator Warnick be adopted:

On page 86, beginning on line 38, strike all of subsection (2)(l) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Warnick spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 852 by Senator Warnick on page 86, line 38 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Warnick did not carry and amendment no. 852 was not adopted by voice vote.

MOTION

Senator Warnick moved that the following amendment no. 849 by Senator Warnick be adopted:

On page 86, beginning on line 25, strike all of subsection (2)(i) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators Warnick, Padden, Walsh and Fortunato spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the

MOTION

Senator Wilson, L. moved that the following amendment no. 853 by Senator Wilson, L. be adopted:

On page 87, beginning on line 5, strike all of subsection (2)(m) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Wilson, L. spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 853 by Senator Wilson, L. on page 87, line 5 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Wilson, L. did not carry and amendment no. 853 was not adopted by voice vote.

MOTION

Senator Bailey moved that the following amendment no. 854 by Senator Bailey be adopted:

On page 87, beginning on line 8, strike all of subsection (2)(n) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators Bailey and O'Ban spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 854 by Senator Bailey on page 87, line 8 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Bailey did not carry and amendment no. 854 was not adopted by voice vote.

MOTION

Senator Braun moved that the following amendment no. 855 by Senator Braun be adopted:

On page 87, beginning on line 11, strike all of subsection (2)(o) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators Braun and Ericksen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 855 by Senator Braun on page 87, line 11 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Braun did not carry and amendment no. 855 was not adopted by voice vote.

MOTION

Senator Braun moved that the following amendment no. 856 by Senator Braun be adopted:

On page 87, beginning on line 23, strike all of subsection (2)(p) Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Braun spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 856 by Senator Braun on page 87, line 23 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Braun did not carry and amendment no. 856 was not adopted by voice vote.

Further consideration of Engrossed Second Substitute House Bill No. 2158 was deferred.

MOTION

On motion of Senator Liias and without objection, the Committee on State Government, Tribal Relations & Elections was relieved of further consideration of Senate Bill No. 6025, concerning bump-fire stock buy back program records, and the bill was placed on the day's second reading calendar.

MOTION

At 3:58 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President for the purposes of brief caucuses.

The Senate was called to order at 4:23 a.m. by President Pro Tempore Keiser.

MOTION

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

MESSAGES FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:
The House has passed:

SENATE BILL NO. 5596,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5993,
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 27, 2019

MR. PRESIDENT:
The House has adopted the report of the Conference Committee on SUBSTITUTE HOUSE BILL NO. 1170 and has passed the bill as recommended by the Conference Committee.
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

The Senate resumed consideration of Engrossed Second Substitute House Bill No. 2158.

WITHDRAWAL OF AMENDMENTS

With the consent of the senate and without objection, the following amendments to Engrossed Second Substitute House Bill No. 2158 were withdrawn:

amendment no. 857, by Senator Rivers on page 87, line 27;
amendment no. 858, by Senator Brown on page 87, line 32;
amendment no. 859, by Senator Becker on page 87, line 35;
amendment no. 860, by Senator Becker on page 88, line 8;
amendment no. 883, by Senator Wagoner on page 88, line 12;
amendment no. 862, by Senator Brown on page 88, line 34;
amendment no. 884, by Senator Wagoner on page 89, line 3;
amendment no. 863, by Senator Brown on page 89 ln 6;
amendment no. 864, by Senator Becker on page 89, line 9;
amendment no. 865, by Senator Rivers on page 89, line 12;
amendment no. 866, by Senator Brown on page 89, line 26;
amendment no. 867, by Senator Rivers on page 89, line 31;
amendment no. 868, by Senator Becker on page 89, line 35;
amendment no. 869, by Senator Becker on page 89, line 39;
amendment no. 870, by Senator Becker on page 90, line 5;
amendment no. 871, by Senator Rivers on page 90, line 12;
amendment no. 872, by Senator Wilson, L. on page 90, line 25;
amendment no. 873, by Senator Rivers on page 90, line 29;
amendment no. 874, by Senator Becker on page 91, line 15;
amendment no. 875, by Senator Schoesler on page 91, line 20;
amendment no. 876, by Senator Rivers on page 91, line 28;
amendment no. 877, by Senator Becker on page 91, line 37;

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amendment no. 878, by Senator Becker on page 92, line 1;
 amendment no. 888 by Senator Rivers on page 94, line 39; and
 amendment no. 885 by Senator Braun on page 95, line 2.

members supported the demand and the demand was sustained.

MOTION

Senator Rivers moved that the following amendment no. 861 by Senator Rivers be adopted:

On page 88, beginning on line 19, strike all of subsection (2)(v)
 Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators Rivers and Short spoke in favor of adoption of the amendment.

Senator Short demanded a roll call.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Rivers on page 88, line 19 to Engrossed Second Substitute House Bill No. 2158.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Rivers and the amendment was not adopted by the following vote: Yeas, 20; Nays, 27; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Braun, Brown, Erickson, Fortunato, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Short, Takko, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Van De Wege, Wellman and Wilson, C.

Excused: Senators Mullet and Sheldon.

MOTION

Senator Becker moved that the following amendment no. 840 by Senator Becker be adopted:

Beginning on page 89, line 39, strike all of subsections (2)(ff) and (gg)

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

On page 90, beginning on line 25, strike all of subsection (2)(kk)

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

On page 91, beginning on line 28, strike all of subsections (2)(oo) and (pp)

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

On page 94, after line 39, insert the following:

"(8) Notwithstanding any other provisions in this section, the workforce education investment surcharge under this section does not apply to any health care services."

Senators Becker and Rivers spoke in favor of adoption of the amendment.

Senator Becker demanded a roll call.

The President Pro Tempore declared that one-sixth of the

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Becker on page 89, line 39, to Engrossed Second Substitute House Bill No. 2158.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Becker and the amendment was not adopted by the following vote: Yeas, 22; Nays, 25; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Braun, Brown, Cleveland, Erickson, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Randall, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Excused: Senators Mullet and Sheldon.

MOTION

Senator Rivers moved that the following amendment no. 879 by Senator Rivers be adopted:

On page 94, line 31, after "(6)" insert "The workforce education investment surcharge under this section does not apply to any person for whom twenty percent or more of their cumulative gross amount reportable under this chapter during the entire current or immediately preceding calendar year is from medicare and medicaid payments.

(7)"

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

Senators Rivers and O'Ban spoke in favor of adoption of the amendment.

Senator Rivers demanded a roll call.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Rivers on page 94, line 31 to Engrossed Second Substitute House Bill No. 2158.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Rivers and the amendment was not adopted by the following vote: Yeas, 23; Nays, 24; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Braun, Brown, Cleveland, Erickson, Fortunato, Hawkins, Holy, Honeyford, King, Kuderer, O'Ban, Padden, Randall, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Lias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Excused: Senators Mullet and Sheldon.

MOTION

Senator Pedersen moved that the following amendment no. 880 by Senator Pedersen be adopted:

On page 94, line 39, after "incorrect." insert "The increased evidentiary standard under this subsection (7) does not apply after January 1, 2022."

Senator Pedersen spoke in favor of adoption of the amendment. The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 880 by Senator Pedersen on page 94, line 39 to Engrossed Second Substitute House Bill No. 2158.

The motion by Senator Pedersen carried and amendment no. 880 was adopted by voice vote.

MOTION

On motion of Senator Rolfes, the rules were suspended, Engrossed Second Substitute House Bill No. 2158 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rolfes spoke in favor of passage of the bill.

Senators Braun and Becker spoke against passage of the bill.

MOTION

Senator Takko demanded that the previous question be put.

The President Pro Tempore declared that at least two additional senators joined the demand and the demand was sustained.

The President Pro Tempore declared the question before the Senate to be, "Shall the main question be now put?"

The motion by Senator Takko carried and the previous question was put by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2158 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2158 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 25; Nays, 22; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Short, Takko, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senators Mullet and Sheldon

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2158, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Liias, and without objection, Senate Concurrent Resolution No. 8406 was placed on the third reading calendar.

MOTION

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

THIRD READING

SENATE CONCURRENT RESOLUTION NO. 8406, by Senator Liias

Authorizing consideration of Senate Bill No. 6025.

The bill was read on Third Reading.

Senator Liias spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8406.

SENATE CONCURRENT RESOLUTION NO. 8406 having received a majority was adopted by voice vote.

MOTION

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

SECOND READING

SENATE BILL NO. 6025, by Senators Honeyford, Takko, Padden, Hobbs, Schoesler, Becker, Fortunato, Wilson, L., King, Zeiger, Short, Ericksen, Wagoner, Brown, Holy, Warnick, Braun, Sheldon and Conway

Concerning bump-fire stock buy-back program records.

The measure was read the second time.

MOTION

On motion of Senator Honeyford, the rules were suspended, Senate Bill No. 6025 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Honeyford, Padden and Takko spoke in favor of passage of the bill.

MOTION

On motion of Senator Wilson, C., Senators Conway and Palumbo were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6025.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6025 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 7; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Darneille, Das, Dhingra, Ericksen, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Liias, Lovelett, McCoy, O'Ban, Padden, Randall, Rivers,

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Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, L. and Zeiger

Voting nay: Senators Carlyle, Frockt, Kuderer, Nguyen, Palumbo, Pedersen and Wilson, C.

Excused: Senators Conway, Mullet and Sheldon

SENATE BILL NO. 6025, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:15 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

MORNING SESSION

The Senate was called to order at 11:54 a.m. by the Acting President Pro Tempore, Senator Hasegawa presiding.

MOTION

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

MESSAGES FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1839,

ENGROSSED HOUSE BILL NO. 2020,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

SIGNED BY THE PRESIDENT PRO TEMPORE

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

SUBSTITUTE SENATE BILL NO. 5668,

SENATE BILL NO. 5881,

SUBSTITUTE SENATE BILL NO. 5883,

SUBSTITUTE SENATE BILL NO. 5894,

ENGROSSED SENATE BILL NO. 5937,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5997,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5998.

MOTION

On motion of Senator Rivers, Senators Fortunato, Padden and Sheldon were excused.

MESSAGE FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6016 with the following amendment(s): 6016.E AMH FIN H3194.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** In 1995, the legislature enacted a

business and occupation tax rate for persons providing international investment management services. The legislature finds that the original intent of this tax rate was to reduce a competitive disadvantage for a limited number of firms providing international investment management services. The fiscal note for the bill stated that "only a very limited taxpayer group would benefit from the reduced rate." The legislature further finds that as a result of the adoption of economic nexus; a single factor, market-based apportionment methodology; and significant ambiguity in the statute governing the qualifications for the tax rate; a much larger number of businesses are claiming the tax rate than was contemplated in 1995. Therefore, the legislature intends in sections 2 and 3 of this act to clarify the scope of activities and persons eligible for the tax rate to more closely align with the legislature's original intent.

Sec. 2. RCW 82.04.290 and 2014 c 97 s 404 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing qualifying international investment management services, as to such persons, the amount of tax with respect to such business is equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2)(a) Upon every person engaging within this state in any business activity other than or in addition to an activity taxed explicitly under another section in this chapter or subsection (1) or (3) of this section; as to such persons the amount of tax on account of such activities is equal to the gross income of the business multiplied by the rate of 1.5 percent.

(b) This subsection (2) includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his or her principal or supplier to be used for informational, educational, and promotional purposes is not considered a part of the agent's remuneration or commission and is not subject to taxation under this section.

(3)(a) Until July 1, 2040, upon every person engaging within this state in the business of performing aerospace product development for others, as to such persons, the amount of tax with respect to such business is equal to the gross income of the business multiplied by a rate of 0.9 percent.

(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.534.

(c) "Aerospace product development" has the meaning as provided in RCW 82.04.4461.

Sec. 3. RCW 82.04.293 and 1997 c 7 s 3 are each amended to read as follows:

For purposes of RCW 82.04.290:

(1) A person is engaged in the business of providing qualifying international investment management services, if:

(a) Such person is engaged primarily in the business of providing investment management services; ~~((and))~~

(b) At least ten percent of the gross income of such person is derived from providing investment management services to any of the following:

(i) ~~((Persons or))~~ Collective investment funds ((residing)) commercially domiciled, as defined in RCW 82.56.010, outside the United States; or

(ii) ~~((persons or))~~ Collective investment funds with at least ten

percent of their investments located outside the United States(-

~~(2) "Investment management services" means investment research, investment consulting, portfolio management, fund administration, fund distribution, investment transactions, or related investment services.~~

~~(3) "Collective investment fund" includes:~~

~~(a));~~

~~(c) More than twenty-five percent of such person's employees are located in this state; and~~

~~(d) Such person is a member of an affiliated group that collectively has:~~

~~(i) Ten or more offices located in at least eight foreign countries;~~

~~(ii) At least five hundred full-time employees worldwide;~~

~~(iii) Worldwide gross revenue of more than four hundred million dollars during the entire current or immediately preceding calendar year; and~~

~~(iv) Average assets under management of more than two hundred billion dollars during the entire current or immediately preceding calendar year.~~

~~(2) An affiliate of a person engaged in the business of providing qualifying international investment management services is deemed to also be engaged in the business of providing qualifying international investment management services if the affiliate:~~

~~(a) Is primarily engaged in providing portfolio management, fund administration, fund distribution, or transfer agent services, or any combination of these activities, to, either directly or indirectly through such affiliate's affiliated group, any of the following:~~

~~(i) Collective investment funds commercially domiciled, as defined in RCW 82.56.010, outside the United States; or~~

~~(ii) Collective investment funds with at least ten percent of their investments located outside the United States; and~~

~~(b) Satisfies the requirement under subsection (1)(c) of this section.~~

~~(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~(a)(i) "Affiliate" and "affiliated" mean a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.~~

~~(ii) For purposes of this subsection (3)(a), "control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.~~

~~(b) "Affiliated group" means any group of two or more persons that are all affiliated with each other.~~

~~(c) "Collective investment fund" includes:~~

~~(i) A mutual fund or other regulated investment company, as defined in section 851(a) of the internal revenue code of 1986, as amended;~~

~~((b)) (ii) An "investment company," as that term is used in section 3(a) of the investment company act of 1940, as well as any entity that would be an investment company for this purpose but for the exemptions contained in section 3(c) (1) or (11);~~

~~((e)) (iii) An "employee benefit plan," which includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the internal revenue code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law;~~

~~((d)) (iv) A fund maintained by a tax-exempt organization, as defined in section 501(c)(3) of the internal revenue code of 1986,~~

as amended, for operating, quasi-endowment, or endowment purposes;

~~((e)) (v) Funds that are established for the benefit of such tax-exempt organizations, such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts; or~~

~~((f)) (vi) Collective investment funds similar to those described in ~~((a)) (c)(i)~~ through ~~((e)) (v)~~ of this subsection (3) created under the laws of a foreign jurisdiction.~~

~~(d) "Investment management services" means managing the collective assets of a collective investment fund by engaging, either directly or indirectly through such person's affiliated group, in all of the following activities: (i) Portfolio management; (ii) fund administration; (iii) fund distribution; and (iv) transfer agent services.~~

~~(4) Investments are located outside the United States if the underlying assets in which the investment constitutes a beneficial interest reside or are created, issued or held outside the United States.~~

~~(5) If a person engaged in the business of providing international investment management services no longer meets the Washington state employment eligibility requirements under subsection (1)(c) of this section, then an amount equal to the entire economic benefit accruing to the person in the current and immediately prior nine consecutive calendar years, or the consecutive years since the effective date of this act, whichever is less, as a result of the preferential tax rate under RCW 82.04.290(1) is immediately due and payable.~~

~~(6) The department must assess interest, but not penalties, on the amounts due under this section. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW and accrue until the taxes for which a tax preference has been used are repaid.~~

NEW SECTION. Sec. 4. (1) The legislature finds that a strong financial cluster is critical to the economic health of Washington state. The legislature further finds that anchor institutions are key to growing a strong financial cluster, including international investment management firms. Therefore, the legislature finds that maintaining a competitive tax policy in Washington state enables the state to maintain its anchor investment management firms.

(2) The legislature finds that standard financial information has not historically been subject to sales tax. In 2007 the legislature clarified that sales tax does not apply to electronically delivered standard financial information purchased by investment management companies or financial institutions. In 2013, the legislature provided clarification by passing a sales and use tax exemption for standard financial information purchased by investment management companies.

(3) The legislature further finds that taxation of such standard financial information would be uncompetitive and inconsistent with the fundamental structure of sales tax as a tax on retail transactions. Therefore, it is the legislature's intent to conform with a previously determined policy objective of exempting certain standard financial information purchased by investment management companies from sales and use tax in order to improve industry competitiveness.

NEW SECTION. Sec. 5. (1) This section is the tax preference performance statement for the tax preferences contained in sections 6 and 7, chapter . . . , Laws of 2019 (sections 6 and 7 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

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(2) The legislature categorizes these tax preferences as ones intended to improve industry competitiveness, as indicated in RCW 82.32.808(2)(b) and to reduce structural inefficiencies in the tax structure as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to maintain a viable financial cluster. It is the legislature's intent to exempt sales and use taxes on sales of standard financial information to qualifying international investment management companies, in order to maintain the presence of at least one international investment management services firm headquartered in Washington state with at least two hundred billion dollars of assets under management.

(4) If a review finds that there is at least one international investment management services firm with at least two hundred billion dollars of assets under management headquartered in Washington state, then the legislature intends to extend the expiration date of the tax preferences.

Sec. 6. RCW 82.08.207 and 2013 2nd sp.s. c 13 s 702 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to sales of standard financial information to qualifying international investment management companies or persons affiliated with a qualifying international investment management company. The exemption provided in this section applies regardless of whether the standard financial information is provided to the buyer in a tangible format or on a tangible storage medium or as a digital product transferred electronically.

(2) Sellers making tax-exempt sales under this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. For sellers who electronically file their taxes, the department must provide a separate tax reporting line for exemption amounts claimed under this section.

(3) A buyer may not continue to claim the exemption under this section once the buyer has purchased standard financial information during the current calendar year with an aggregate total selling price in excess of fifteen million dollars and an exemption has been claimed under this section or RCW 82.12.207 for such standard financial information. The fifteen million dollar limitation under this subsection does not apply to any other exemption under this chapter that applies to standard financial information. Sellers are not responsible for ensuring a buyer's compliance with the fifteen million dollar limitation under this subsection. Sellers may not be assessed for uncollected sales tax on a sale to a buyer claiming an exemption under this section after having exceeded the fifteen million dollar limitation under this subsection, except as provided in RCW 82.08.050 (4) and (5).

(4) The definitions in this subsection and RCW 82.04.293 apply throughout this section unless the context clearly requires otherwise.

(a)((+)) "Qualifying international investment management company" means a person(:

~~(A) Who is primarily engaged in the business of providing investment management services; and~~

~~(B) Who has gross income that is at least ten percent derived from providing investment management services to:~~

~~(i) Persons or collective investment funds residing outside the United States; or~~

~~(ii) Collective investment funds with at least ten percent of their investments located outside the United States.~~

~~(ii) The definitions in RCW 82.04.293 apply to this subsection~~
~~(4)(a)) who is eligible for the tax rate in RCW 82.04.290(1).~~

(b)(i) "Standard financial information" means financial data, facts, or information, or financial information services, not generated, compiled, or developed only for a single customer. Standard financial information includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports.

(ii) For purposes of this subsection (4)(b), "financial market data" means market pricing information, such as for securities, commodities, and derivatives; corporate actions for publicly and privately traded companies, such as dividend schedules and reorganizations; corporate attributes, such as domicile, currencies used, and exchanges where shares are traded; and currency information.

(5) This section expires July 1, ~~((2024))~~ 2031.

Sec. 7. RCW 82.12.207 and 2013 2nd sp.s. c 13 s 703 are each amended to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of standard financial information by qualifying international investment management companies or persons affiliated, as defined in RCW 82.04.293, with a qualifying international investment management company. The exemption provided in this section applies regardless of whether the standard financial information is in a tangible format or resides on a tangible storage medium or is a digital product transferred electronically to the qualifying international investment management company.

(2) The definitions, conditions, and requirements in RCW 82.08.207 apply to this section.

(3) This section expires July 1, ~~((2024))~~ 2031.

NEW SECTION. **Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 9.** The provisions of RCW 82.32.805 and 82.32.808 do not apply to sections 2 and 3 of this act.

NEW SECTION. **Sec. 10.** Sections 2 and 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2019."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6016.

Senator Liias spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6016.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6016 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6016, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed

Senate Bill No. 6016, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 19; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hawkins, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Hasegawa, Holy, Honeyford, King, Nguyen, O'Ban, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senators Fortunato, Padden and Sheldon

ENGROSSED SENATE BILL NO. 6016, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5825 with the following amendment(s): 5825-S.E AMH ENGR H3161.E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. (1) The legislature recognizes that the Puget Sound region is faced with growing traffic congestion and must improve mobility for people and goods by maximizing the effectiveness of the freeway system. Investments in the Interstate 405, state route number 167, and state route number 509 corridors are essential for providing benefits for the movement of vehicles and people. Further, the legislature recognizes that in 2015, the passage of the connecting Washington transportation revenue proposal assumed that tolling would be a component of projects on these corridors.

(2) The legislature recognizes that completion of state route number 167 in Pierce county and completion of state route number 509 in King county provide essential connections to the Port of Tacoma and the Port of Seattle and will help ensure people and goods move more reliably through the Puget Sound region. The completion of these corridors, known as the Gateway project, will play an essential role in enhancing the state's economic competitiveness, both nationally and globally.

(3) The legislature acknowledges that as one of the most congested freeway sections in the state, the combined Interstate 405 and state route number 167 corridor in King county serves as an ideal candidate for an express toll lanes network. The express toll lanes network provides a tool for managing the use of high occupancy vehicle lanes while generating funds to improve projects in the corridor.

(4) Therefore, it is the intent of this act to expedite the delivery of the Puget Sound Gateway facility, designate the Puget Sound Gateway project as an eligible toll facility, and authorize the imposition of tolls on the Puget Sound Gateway facility. It is further the intent of this act to direct the department of transportation to develop and operate an express toll lanes network on Interstate 405 from the city of Lynnwood on the north end to the intersection of state route number 167 and state route number 512 on the south end.

NEW SECTION. Sec. 2. (1) In order to provide funds necessary for the design, right-of-way, and construction of

projects as allowed in sections 11 through 14 of this act, there shall be issued and sold upon the request of the department of transportation up to the following amounts of general obligation bonds of the state of Washington first payable from toll revenue and excise taxes on fuel and vehicle-related fees in accordance with section 5 of this act:

(a) One billion one hundred sixty million dollars for the Interstate 405 and state route number 167 express toll lanes; and

(b) Three hundred forty million dollars for the Puget Sound Gateway facility.

(2) For purposes of chapter . . . , Laws of 2019 (this act), "vehicle-related fees" means vehicle-related fees imposed under Title 46 RCW that constitute license fees for motor vehicles to be used for highway purposes.

NEW SECTION. Sec. 3. Upon the request of the department, the state finance committee shall supervise and provide for the issuance, sale, and retirement of bonds authorized by this act in accordance with chapter 39.42 RCW. Bonds authorized by this act shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 4. (1) The proceeds from the sale of bonds authorized by:

(a) Section 2(1)(a) of this act shall be deposited in the Interstate 405 and state route number 167 express toll lanes account created in section 12 of this act; and

(b) Section 2(1)(b) of this act shall be deposited in the Puget Sound Gateway facility account created in section 14 of this act.

(2) The bond proceeds shall be available only for the purposes enumerated in section 2, chapter . . . , Laws of 2019 (section 2 of this act), for the payment of bond anticipation notes or other interim financing, if any, capitalizing interest on the bonds, funding a debt service reserve fund, if any, and for the payment of bond issuance costs, including the costs of underwriting.

NEW SECTION. Sec. 5. Bonds issued under the authority of this section and sections 2, 6, and 7 of this act shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on the bonds shall be first payable in the manner provided in this section and sections 2, 6, and 7 of this act from toll revenue and then from proceeds of excise taxes on fuel and vehicle-related fees to the extent toll revenue is not available for that purpose. Toll revenue and the state excise taxes on fuel imposed by chapter 82.38 RCW and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this section and sections 2, 6, and 7 of this act, and the legislature agrees to continue to impose these toll charges on the Interstate 405 and state route number 167 express toll lanes, and on the Puget Sound Gateway facility, and on any other eligible toll facility designated by the legislature and on which the imposition of tolls is authorized by the legislature in respect of the bonds, and excise taxes on fuel and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this section and sections 2, 6, and 7 of this act.

NEW SECTION. Sec. 6. For bonds issued under the authority of this section and sections 2, 5, and 7 of this act, the state treasurer shall first withdraw toll revenue from the

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appropriate toll account for the facility for which the bonds are issued and sold, and, to the extent toll revenue is not available, excise taxes on fuel and vehicle-related fees and deposit in the toll facility bond retirement account, or a special subaccount in the account, such amounts, and at such times, as are required by the bond proceedings.

Any excise taxes on fuel and vehicle-related fees required for bond retirement or interest on the bonds authorized by this section and sections 2, 5, and 7 of this act shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on fuel and vehicle-related fees and which is, or may be, appropriated to the department for state highway purposes. Funds required shall never constitute a charge against any other allocations of fuel tax and vehicle-related fee revenues to the state, counties, cities, and towns unless the amount arising from excise taxes on fuel and vehicle-related fees distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the fuel taxes and vehicle-related fees that are distributable to the state, counties, cities, and towns shall be repaid from available toll revenue in the manner provided in the bond proceedings or, if toll revenue is not available for that purpose, from the first revenues from the excise taxes on fuel and vehicle-related fees distributed to the motor vehicle fund not required for bond retirement or interest on the bonds. Any excise taxes on fuel and vehicle-related fees required for bond retirement or interest on the bonds authorized by this section and sections 2, 5, and 7 of this act shall be reimbursed to the motor vehicle fund from toll revenue in the manner and with the priority specified in the bond proceedings.

NEW SECTION. Sec. 7. Bonds issued under the authority of sections 2, 5, and 6 of this act and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge excise taxes on fuel and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such excise taxes on fuel and vehicle-related fees.

Sec. 8. RCW 47.10.882 and 2011 c 377 s 3 are each amended to read as follows:

The toll facility bond retirement account is created in the state treasury for the purpose of payment of the principal of and interest and premium on bonds. Both principal of and interest on the bonds issued for the purposes of chapter 498, Laws of 2009 (~~and~~), chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act) shall be payable from the toll facility bond retirement account. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal of and interest on the bonds. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings.

Sec. 9. RCW 47.10.887 and 2011 c 377 s 5 are each amended to read as follows:

The state finance committee may determine and include in any resolution authorizing the issuance of any bonds under chapter 498, Laws of 2009 (~~and~~), chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act), such terms, provisions, covenants, and conditions as it may deem appropriate in order to assist with the marketing and sale of the bonds, confer rights upon the owners of bonds, and safeguard rights of the owners of bonds including, among other things:

(1) Provisions regarding the maintenance and operation of eligible toll facilities;

(2) The pledges, uses, and priorities of application of toll revenue;

(3) Provisions that bonds shall be payable from and secured solely by toll revenue as provided by RCW 47.10.886, or shall be payable from and secured by both toll revenue and by a pledge of excise taxes on motor vehicle and special fuels and the full faith and credit of the state as provided in RCW 47.10.879 and 47.10.883 through 47.10.885;

(4) Provisions that bonds shall be payable from and secured by both toll revenue and by a pledge of excise taxes on fuel and vehicle-related fees and the full faith and credit of the state as provided in sections 2 and 5 through 7 of this act;

(5) In consultation with the department of transportation and the tolling authority, financial covenants requiring that the eligible toll facilities must produce specified coverage ratios of toll revenue to debt service on bonds;

~~((5))~~ (6) The purposes and conditions that must be satisfied prior to the issuance of any additional bonds that are to be payable from and secured by any toll revenue on an equal basis with previously issued and outstanding bonds payable from and secured by toll revenue;

~~((6))~~ (7) Provisions that bonds for which any toll revenue are pledged, or for which a pledge of any toll revenue may be reserved, may be structured on a senior, parity, subordinate, or special lien basis in relation to any other bonds for which toll revenue is pledged, with respect to toll revenue only; and

~~((7))~~ (8) Provisions regarding reserves, credit enhancement, liquidity facilities, and payment agreements with respect to bonds.

Notwithstanding the foregoing, covenants and conditions detailing the character of management, maintenance, and operation of eligible toll facilities, insurance for eligible toll facilities, financial management of toll revenue, and disposition of eligible toll facilities must first be approved by the department of transportation.

The owner of any bond may by mandamus or other appropriate proceeding require and compel performance of any duties imposed upon the tolling authority and the department of transportation and their respective officials, including any duties imposed upon or undertaken by them or by their respective officers, agents, and employees, in connection with the construction, maintenance, and operation of eligible toll facilities and in connection with the collection, deposit, investment, application, and disbursement of the proceeds of the bonds and toll revenue.

Sec. 10. RCW 47.10.888 and 2011 c 377 s 6 are each amended to read as follows:

(1) For the purposes of chapter 498, Laws of 2009 (~~and~~), chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act), "toll revenue" means all toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of transportation facilities in the state, including eligible toll facilities. However, for the purpose of any pledge of toll revenue to the payment of particular bonds issued under chapter 498, Laws of 2009 (~~and~~), chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act), "toll revenue" means and includes only such toll revenue or portion thereof that is pledged to the payment of those bonds in the resolution authorizing the issuance of such bonds. Toll revenue constitutes "fees and revenues derived from the ownership or operation of any undertaking, facility, or project" as that phrase is used in Article VIII, section 1(c)(1) of the state Constitution.

(2) For the purposes of chapter 498, Laws of 2009 (~~and~~), chapter 377, Laws of 2011, and chapter . . . , Laws of 2019 (this act), "tolling authority" has the same meaning as in RCW

47.56.810.

Sec. 11. RCW 47.56.880 and 2011 c 369 s 3 are each amended to read as follows:

(1) The imposition of tolls for express toll lanes on Interstate 405 between ~~((the junctions with))~~ Interstate 5 on the north end ~~((and NE 6th Street))~~ in the city of ~~((Bellevue))~~ Lynnwood and Interstate 5 on the south end in the city of Tukwila, and for state route number 167 between Interstate 405 on the north end and state route number 512 on the south end is authorized~~((;))~~, Interstate 405 ~~((;))~~ and state route number 167 are designated an eligible toll facility, and toll revenue generated in the corridor must only be expended on the Interstate 405 and state route number 167 projects as identified in each corridor's master plan and as allowed under RCW 47.56.820.

(2) Tolls for the express toll lanes must be set as follows:

(a) The schedule of toll rates must be set by the tolling authority pursuant to RCW 47.56.850. Toll rates may vary in amount by time of day, level of traffic congestion within the highway facility, or other criteria, as the tolling authority deems appropriate.

(b) In those locations with two express toll lanes in each direction, the toll rate must be the same in both lanes.

(c) Toll charges may not be assessed on transit buses and vanpools.

(d) The department shall establish performance standards for travel time, speed, and reliability for the express toll lanes project. The department must automatically adjust the toll rate within the schedule established by the tolling authority, using dynamic tolling, to ~~((ensure))~~ maintain the goal that average vehicle speeds in the lanes remain above forty-five miles per hour at least ninety percent of the time during peak hours.

(e) The tolling authority shall periodically review the toll rates against traffic performance of all lanes to determine if the toll rates are effectively maintaining travel time, speed, and reliability on the highway facilities.

(f)(i) Toll charges may not be assessed on carpools with two or more people in the vehicle on the portion of Interstate 405 between Bellevue and state route number 167 for at least the first year following the initial imposition of tolls on that portion of the express toll lanes, contingent upon the analysis described in (f)(ii) of this subsection.

(ii) The department must analyze the effect of (f)(i) of this subsection utilizing forecasting and modeling data and present the results of the analysis to the tolling authority. If the analysis indicates that the express toll lanes on the portion of Interstate 405 between Bellevue and state route number 167 will not cover the financial obligations outlined in section 12(4) of this act, then the restriction on toll charges in (f)(i) of this subsection will not be implemented and the department must provide the transportation committees of the legislature with a report, within thirty days, that provides options for not assessing toll charges on carpools with two or more people in the vehicle, which also meet the financial obligations outlined in section 12(4) of this act.

(g) After the bonds issued pursuant to section 2(1)(a) of this act are retired, the tolling authority must reduce the toll rates commensurate with this reduction in the amount of toll revenues required from the express toll lanes.

(3) ~~((The department may construct and operate express toll lanes on Interstate 405 between the city of Bellevue on the south end and Interstate 5 on the north end. Operation of the express toll lanes may not commence until the department has completed capacity improvements necessary to provide a two-lane system from NE 6th Street in the city of Bellevue to state route number 522 and the conversion of the existing high-occupancy vehicle lane to an express toll lane between state route number 522 and~~

~~the city of Lynnwood. Construction of the capacity improvements described in this subsection, including items that enable implementation of express toll lanes such as conduit and other underground features, must begin as soon as practicable. However, any contract term regarding tolling equipment, such as gantries, barriers, or cameras, for Interstate 405 may not take effect unless specific appropriation authority is provided in 2012 stating that funding is provided solely for tolling equipment on Interstate 405.))~~ The department shall work with local jurisdictions to minimize and monitor impacts to local streets and, after consultation with local jurisdictions, recommend mitigation measures to the legislature in those locations where it is appropriate.

(4) The department shall monitor the express toll lanes ~~((project))~~ and shall annually report to the transportation commission and the legislature on the impacts from the project on the following performance measures:

(a) Whether the express toll lanes maintain speeds of forty-five miles per hour at least ninety percent of the time during peak periods, and any alternate metric determined by the department in conjunction with the federal highway administration;

(b) Whether the average traffic speed changed in the general purpose lanes;

(c) Whether transit ridership changed;

(d) Whether the actual use of the express toll lanes is consistent with the projected use;

(e) Whether the express toll lanes generated sufficient revenue to pay for all ~~((Interstate 405))~~ express toll lane-related operating costs; and

(f) Whether travel times and volumes have increased or decreased on adjacent local streets and state highways~~((; and~~

~~((g) Whether the actual gross revenues are consistent with projected gross revenues as identified in the fiscal note for Engrossed House Bill No. 1382 distributed by the office of financial management on March 15, 2011.~~

~~((5) If after two years of operation of the express toll lanes on Interstate 405 performance measures listed in subsection (4)(a) and (e) of this section are not being met, the express toll lanes project must be terminated as soon as practicable.))~~

~~((6))~~ (5) The department, in consultation with the transportation commission, shall consider making operational changes necessary to fix any unintended consequences of implementing the express toll lanes ~~((project))~~.

~~((7))~~ (6) A violation of the lane restrictions applicable to the express toll lanes established under this section is a traffic infraction.

Sec. 12. RCW 47.56.884 and 2011 c 369 s 5 are each amended to read as follows:

(1) The Interstate 405 and state route number 167 express toll lanes ~~((operations))~~ account is created in the motor vehicle fund. ~~((All revenues received by the department as toll charges collected from Interstate 405 express toll lane users must be deposited into the account))~~

(2) Deposits to the account must include:

(a) All proceeds of bonds authorized in section 2(1)(a) of this act and loans for the Interstate 405 and state route number 167 projects, including capitalized interest;

(b) All tolls and other revenues received from the operation of the Interstate 405 and state route number 167 express toll lanes facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for completing the Interstate 405 and state route number 167 express toll lanes facility; and

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(e) All damages liquidated or otherwise, collected under any contract involving Interstate 405 or state route number 167 projects.

~~(3) Moneys in the account may be spent only after appropriation((-), consistent with RCW 47.56.820(, expenditures from the account may be used for debt service, planning, administration, construction, maintenance, operation, repair, rebuilding, enforcement, and the expansion of express toll lanes on Interstate 405)).~~

(4) The proceeds of the general obligation bonds authorized in section 2(1)(a) of this act shall be used to make progress toward completion of the Interstate 405 and state route number 167 master plans. It is the intent of the legislature to first use the bond proceeds for the following projects:

(a) Up to six hundred million dollars to design and construct capacity improvements on Interstate 405 between state route number 522 and state route number 527. This project would widen Interstate 405 through the state route number 522 interchange, build direct access ramps to the express toll lanes at state route number 522, build one new lane in each direction to be used as a second express toll lane, and build a partial direct access ramp at state route number 527 to the east, north, and south, to provide connections to the Canyon Park park and ride;

(b) Up to two hundred fifteen million dollars toward completion of the I-405/Renton to Bellevue - Corridor Widening project (M00900R);

(c) Up to three million dollars to update the state route number 167 master plan;

(d) Up to one hundred million dollars to construct both the northbound and southbound state route number 167 stage 6 extension project. This project would extend the express toll lanes south to the state route number 410 and state route number 512 interchange to help mitigate traffic congestion; and

(e) Up to twenty million dollars to design the Interstate 405/North 8th Street Direct Access Ramp project in the city of Renton. It is the intent of the legislature to provide construction funding for this project at a later date.

NEW SECTION. Sec. 13. (1) The Puget Sound Gateway facility is designated an eligible toll facility, tolls are authorized to be imposed on the Puget Sound Gateway facility, and toll revenue generated must be expended only as allowed under RCW 47.56.820.

(2)(a) In setting toll rates for the Puget Sound Gateway facility, pursuant to RCW 47.56.850, the tolling authority shall set a variable schedule of toll rates to maintain travel time, speed, and reliability on the Puget Sound Gateway facility.

(b) The tolling authority may adjust toll rates to reflect inflation as measured by the consumer price index or as necessary for those costs that are eligible under RCW 47.56.820 and to meet the obligations of the tolling authority under RCW 47.56.850.

(c) After the bonds issued pursuant to section 2(1)(b) of this act are retired, the tolling authority must reduce the toll rates commensurate with this reduction in the amount of toll revenues required from the express toll lanes.

(3) For the purposes of this section and section 14 of this act, "Puget Sound Gateway facility" means the state route number 167 roadway between north Meridian Avenue in Puyallup and Interstate 5 in Fife, the state route number 509 spur between Interstate 5 in Fife and state route number 509 in Tacoma, and the state route number 509 roadway between south 188th Street and Interstate 5 in SeaTac.

(4) Prior to setting the schedule of toll rates on the portion of state route number 509 between South 188th Street and Interstate 5 in SeaTac, the department, in collaboration with the transportation commission, must analyze and present to the

transportation commission at least one schedule of toll rates that exempts, discounts, or provides other toll relief for low-income drivers during all hours of operation on state route number 509 between South 188th Street and Interstate 5 in SeaTac. In analyzing the schedule of toll rates, the department shall consider implementing an exemption, discount, or other toll relief policy for drivers that reside in close proximity to the corridor.

NEW SECTION. Sec. 14. (1) A special account to be known as the Puget Sound Gateway facility account is created in the motor vehicle fund.

(2) Deposits to the account must include:

(a) All proceeds of bonds authorized in section 2(1)(b) of this act and loans for the Puget Sound Gateway project, including capitalized interest;

(b) All tolls and other revenues received from the operation of the Puget Sound Gateway facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for completing the Puget Sound Gateway project, including existing state route number 509 right-of-way in SeaTac and Des Moines; and

(e) All damages liquidated or otherwise, collected under any contract involving the Puget Sound Gateway project.

(3) Moneys in the account may be spent only after appropriation, consistent with RCW 47.56.820.

(4) The proceeds of the general obligation bonds authorized in section 2(1)(b) of this act shall be used to make progress toward completion of the Puget Sound Gateway facility. It is the intent of the legislature to use the bond proceeds to advance the Puget Sound Gateway facility in order to maximize net mobility benefits for both freight and the traveling public. It is the intent of the legislature for tolling to begin on stage one of the project as soon as practicable in order to leverage toll funds, use bond proceeds to advance one hundred twenty-nine million dollars of connecting Washington state appropriations by two biennia to the 2023-2025 biennium, and advance local and federal contributions. This will allow the department of transportation to deliver and open to the public stage two of the project in fiscal year 2028, three years earlier than originally planned, and to realize twenty million dollars in cost savings in connecting Washington state appropriations.

(5) It is also the intent of the legislature to use the bond proceeds for up to five million dollars to provide noise mitigation on state route number 509 between south 188th Street and Interstate 5.

(6) It is further the intent of the legislature to clarify how the tolling of state route number 167 and state route number 509 will be implemented by requiring the transportation commission and the department of transportation to consider naming the sections of each facility where all of the lanes are tolled as the state route number 167 express way and the state route number 509 express way respectively.

Sec. 15. RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW,

but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, ~~((the Interstate 405 express toll lanes operations account,))~~ the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account,

the highway bond retirement fund, the highway infrastructure account, the highway safety fund, ~~((the high occupancy toll lanes operations account,))~~ the hospital safety net assessment fund, the industrial insurance premium refund account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University

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building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

(1)RCW 47.56.403 (High occupancy toll lane pilot project) and 2017 c 313 s 712, 2015 1st sp.s. c 10 s 705, 2013 c 306 s 709, 2011 c 367 s 709, & 2005 c 312 s 3; and

(2)RCW 47.66.090 (High occupancy toll lanes operations account) and 2005 c 312 s 4.

NEW SECTION. Sec. 17. Any residual balance of funds remaining in the high occupancy toll lanes operations account repealed by section 16 of this act on the effective date of this section, and any year-end accruals accounted for after the effective date of this section from the state route number 167 high occupancy toll lanes pilot project, shall be transferred to the Interstate 405 and state route number 167 express toll lanes account created in section 12 of this act.

NEW SECTION. Sec. 18. Sections 2 through 7 of this act are each added to chapter 47.10 RCW.

NEW SECTION. Sec. 19. Sections 13 and 14 of this act are each added to chapter 47.56 RCW and codified with the subchapter heading of "toll facilities created after July 1, 2008."

NEW SECTION. Sec. 20. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2019."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5825.

Senators Hobbs, King and Zeiger spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5825.

The motion by Senator Hobbs carried and the Senate concurred

in the House amendment(s) to Engrossed Substitute Senate Bill No. 5825 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5825, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5825, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 14; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hawkins, Hobbs, Holy, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Braun, Brown, Ericksen, Hasegawa, Honeyford, King, O'Ban, Rivers, Schoesler, Short, Wagoner, Warnick and Wilson, L.

Excused: Senators Fortunato, Padden and Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5825, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5160 with the following amendment(s): 5160-S.E AMH TARL H3150.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.36.381 and 2018 c 46 s 2 are each amended to read as follows:

A person is exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1)(a) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing. However, any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant may receive an exemption on more than one residence in any year. Moreover, confinement of the person to a hospital, nursing home, assisted living facility, ~~((#))~~ adult family home, or home of a relative for the purpose of long-term care does not disqualify the claim of exemption if:

~~((#))~~ (i) The residence is temporarily unoccupied;

~~((#))~~ (ii) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support; or

~~((#))~~ (iii) The residence is rented for the purpose of paying nursing home, hospital, assisted living facility, or adult family home costs,

(b) For the purpose of this subsection (1), "relative" means any individual related to the claimant by blood, marriage, or adoption;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the

residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or state registered domestic partnership or owned by cotenants is deemed to be owned by each spouse or each domestic partner or each cotenant, and any lease for life is deemed a life estate;

(3)(a) The person claiming the exemption must be:

(i) Sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability; or

(ii) A veteran of the armed forces of the United States entitled to and receiving compensation from the United States department of veterans affairs at ~~((a total disability rating for a service-connected disability))~~;

(A) A combined service-connected evaluation rating of eighty percent or higher; or

(B) A total disability rating for a service-connected disability without regard to evaluation percent.

(b) However, any surviving spouse or surviving domestic partner of a person who was receiving an exemption at the time of the person's death will qualify if the surviving spouse or surviving domestic partner is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person is exempt from an obligation to pay is calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two months or more of the assessment year, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the assessment year by reason of the death of the person's spouse or the person's domestic partner, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person after such occurrences by twelve. If it is necessary to estimate income to comply with this subsection, the assessor may require confirming documentation of such income prior to May 31 of the year following application;

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income ~~((of forty thousand dollars or less))~~ equal or less than income threshold 3 is exempt from all excess property taxes, the additional state property tax imposed under RCW 84.52.065(2), and the portion of the regular property taxes authorized pursuant to RCW 84.55.050 and approved by the voters, if the legislative authority of the county or city imposing the additional regular property taxes identified this exemption in the ordinance placing the RCW 84.55.050 measure on the ballot; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income ~~((of thirty five thousand dollars or less but greater than thirty thousand dollars))~~ equal to or less than income threshold 2 but greater than income threshold 1 is exempt from all regular property taxes on the greater of fifty thousand dollars or thirty-five percent of the valuation of his or her residence, but not to exceed seventy thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income ~~((of thirty thousand dollars or less))~~ equal to or less than income threshold 1 is exempt from all

regular property taxes on the greater of sixty thousand dollars or sixty percent of the valuation of his or her residence;

(6)(a) For a person who otherwise qualifies under this section and has a combined disposable income ~~((of forty thousand dollars or less))~~ equal or less than income threshold 3, the valuation of the residence is the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation must be used upon requalification. If the person fails to qualify for more than one year in succession because of high income or fails to qualify for any other reason, the valuation upon requalification is the assessed value on January 1st of the assessment year in which the person requalifies. If the person transfers the exemption under this section to a different residence, the valuation of the different residence is the assessed value of the different residence on January 1st of the assessment year in which the person transfers the exemption.

(b) In no event may the valuation under this subsection be greater than the true and fair value of the residence on January 1st of the assessment year.

(c) This subsection does not apply to subsequent improvements to the property in the year in which the improvements are made. Subsequent improvements to the property must be added to the value otherwise determined under this subsection at their true and fair value in the year in which they are made.

Sec. 2. RCW 84.36.383 and 2012 c 10 s 74 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, ~~((except where the context clearly indicates a different meaning))~~ unless the context clearly requires otherwise:

(1) The term "residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term also includes a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term also includes a single-family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a residence is deemed real property.

(2) The term "real property" also includes a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities. A mobile home located on land leased by the owner of the mobile home is subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) "Department" means the state department of revenue.

(4) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner

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authorized by the laws of this state or another jurisdiction to issue prescriptions;

(b) The treatment or care of either person received in the home or in a nursing home, assisted living facility, or adult family home; and

(c) Health care insurance premiums for medicare under Title XVIII of the social security act.

(5) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments;

(f) Veterans benefits, other than:

(i) Attendant-care payments;

(ii) Medical-aid payments;

(iii) Disability compensation, as defined in Title 38, part 3, section 3.4 of the code of federal regulations, as of January 1, 2008; and

(iv) Dependency and indemnity compensation, as defined in Title 38, part 3, section 3.5 of the code of federal regulations, as of January 1, 2008;

(g) Federal social security act and railroad retirement benefits;

(h) Dividend receipts; and

(i) Interest received on state and municipal bonds.

(6) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

(7) "Disability" has the same meaning as provided in 42 U.S.C. Sec. 423(d)(1)(A) as amended prior to January 1, 2005, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(8) "County median household income" means the median household income estimates for the state of Washington by county of the legal address of the principal place of residence, as published by the office of financial management.

(9) "Income threshold 1" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to thirty thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 1" for the previous year or forty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(10) "Income threshold 2" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to thirty-five thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 2" for the previous year or fifty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(11) "Income threshold 3" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to forty thousand

dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 3" for the previous year or sixty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(12) "Principal place of residence" means a residence occupied for more than nine months each calendar year by a person claiming an exemption under RCW 84.36.381.

Sec. 3. RCW 84.36.385 and 2011 c 174 s 106 are each amended to read as follows:

(1) A claim for exemption under RCW 84.36.381 as now or hereafter amended, may be made and filed at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as prescribed and furnished by the department of revenue. However, an exemption from tax under RCW 84.36.381 continues for no more than six years unless a renewal application is filed as provided in subsection (3) of this section.

(2) A person granted an exemption under RCW 84.36.381 must inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW 84.36.381 in 1993 and thereafter(=) must file with the county assessor a renewal application not later than December 31 of the year the assessor notifies such person of the requirement to file the renewal application. Renewal applications must be on forms prescribed and furnished by the department of revenue.

(4) At least once every six years, the county assessor must notify those persons receiving an exemption from taxes under RCW 84.36.381 of the requirement to file a renewal application. The county assessor may also require a renewal application following an amendment of the income requirements set forth in RCW 84.36.381.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim or exemption must be denied but such denial is subject to appeal under the provisions of RCW 84.48.010 and in accordance with the provisions of RCW 84.40.038. If the applicant had received exemption in prior years based on erroneous information, the taxes must be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed five years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information must be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

(7) The department must authorize an option for electronic filing of applications and renewal applications for the exemption under RCW 84.36.381.

(8) Beginning August 1, 2019, and by March 1st every fifth year thereafter, the department must publish updated income thresholds. The adjusted thresholds must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply. The department must adjust income thresholds for each county to reflect the most recent year available of estimated county median household incomes, including preliminary estimates or projections, as published by the office of financial management.

For the purposes of this subsection, "county median household income" has the same meaning as provided in RCW 84.36.383.

(9) Beginning with the adjustment made by March 1, 2024, as provided in subsection (8) of this section, and every second adjustment thereafter, if an income threshold in a county is not adjusted based on percentage of county median income, then the income threshold must be adjusted based on the growth of the consumer price index for all urban consumers (CPI-U) for the prior twelve month period as published by the United States bureau of labor statistics. In no case may the adjustment be greater than one percent. The adjusted thresholds must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply.

Sec. 4. RCW 84.38.020 and 2006 c 62 s 2 are each amended to read as follows:

~~((Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

(b) When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant ((shall be)) is.

~~(("Department" means the state department of revenue.))~~ "Devisee" has the same meaning as provided in RCW 21.35.005.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Heir" has the same meaning as provided in RCW 21.35.005.

(5) "Income threshold" means: (a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to forty-five thousand dollars; and (b) for taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of the income threshold for the previous year, or seventy-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8). Beginning with the adjustment made by March 1, 2024, as provided in RCW 84.36.385(8), and every second adjustment thereafter, if the income threshold in a county is not adjusted based on percentage of county median income as provided in this subsection, then the income threshold must be adjusted based on the growth of the consumer price index for all urban consumers (CPI-U) for the prior twelve-month period as published by the United States bureau of labor statistics. In no case may the adjustment be greater than one percent. The adjusted threshold must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply.

(6) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special assessments.

~~((5))~~ (7) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

~~((6))~~ (8) "Residence" has the meaning given in RCW

84.36.383.

~~((7))~~ (9) "Special assessment" means the charge or obligation imposed by a local government upon property specially benefited.

Sec. 5. RCW 84.38.030 and 2015 3rd sp.s. c 30 s 3 and 2015 c 86 s 313 are each reenacted and amended to read as follows:

A claimant may defer payment of special assessments and/or real property taxes on up to eighty percent of the amount of the claimant's equity value in the claimant's residence if the following conditions are met:

(1) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the age and income limits under RCW 84.36.381.

(2) The claimant must be sixty years of age or older on December 31st of the year in which the deferral claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability as defined in RCW 84.36.383. However, any surviving spouse ~~((or))~~ surviving domestic partner, heir, or devisee of a person who was receiving a deferral at the time of the person's death qualifies if the surviving spouse ~~((or))~~ surviving domestic partner, heir, or devisee is fifty-seven years of age or older and otherwise meets the requirements of this section.

(3) The claimant must have a combined disposable income, as defined in RCW 84.36.383, ~~((of forty five thousand dollars or less))~~ equal to or less than the income threshold.

(4) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community, owned by domestic partners, or owned by cotenants is deemed to be owned by each spouse, each domestic partner, or each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value. However, if the claimant fails to keep fire and casualty insurance in force to the extent of the state's interest in the claimant's equity value, the amount deferred may not exceed one hundred percent of the claimant's equity value in the land or lot only.

(6) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

Sec. 6. RCW 84.38.070 and 2008 c 6 s 703 are each amended to read as follows:

If the claimant declaring his or her intention to defer special assessments or real property tax obligations under this chapter ceases to reside permanently on the property for which the declaration to defer is made between the date of filing the declaration and December 15th of that year, the deferral otherwise allowable under this chapter ~~((shall))~~ is not ((be)) allowed on such tax roll. However, this section ~~((shall))~~ does not apply where the claimant dies, leaving a spouse ~~((or))~~, domestic partner, heir, or devisee surviving, who is also eligible for deferral of special assessment and/or property taxes.

Sec. 7. RCW 84.38.130 and 2008 c 6 s 704 are each amended to read as follows:

Special assessments and/or real property tax obligations deferred under this chapter ~~((shall))~~ become payable together with interest as provided in RCW 84.38.100:

(1) Upon the sale of property which has a deferred special assessment and/or real property tax lien upon it.

(2) Upon the death of the claimant with an outstanding deferred

special assessment and/or real property tax lien except a surviving spouse ~~((or))~~, surviving domestic partner, heir, or devisee who is qualified under this chapter may elect to incur the special assessment and/or real property tax lien, which ~~((shall))~~ is then ~~((be))~~ payable by that spouse ~~((or that))~~, domestic partner, heir, or devisee as provided in this section.

(3) Upon the condemnation of property with a deferred special assessment and/or real property tax lien upon it by a public or private body exercising eminent domain power, except as otherwise provided in RCW 84.60.070.

(4) At such time as the claimant ceases to reside permanently in the residence upon which the deferral has been granted.

(5) Upon the failure of any condition set forth in RCW 84.38.030.

Sec. 8. RCW 84.38.150 and 2008 c 6 s 705 are each amended to read as follows:

(1) A surviving spouse ~~((or))~~, surviving domestic partner, heir, or devisee of the claimant may elect to continue the property in its deferred tax status if the property is the residence of the spouse ~~((or))~~, domestic partner, heir, or devisee of the claimant and the spouse ~~((or))~~, domestic partner, heir, or devisee meets the requirements of this chapter.

(2) The election under this section to continue the property in its deferred status by the spouse ~~((or))~~, the domestic partner, heir, or devisee of the claimant ~~((shall))~~ must be filed in the same manner as an original claim for deferral is filed under this chapter ~~((, not later than ninety days from the date of the claimant's death))~~. Thereupon, the property with respect to which the deferral of special assessments and/or real property taxes is claimed ~~((shall))~~ must continue to be treated as deferred property. When the property has been continued in its deferred status by the filing of the spouse ~~((or))~~, the domestic partner, heir, or devisee of the claimant of an election under this section, the spouse ~~((or))~~, the domestic partner, heir, or devisee of the claimant may continue the property in its deferred status in subsequent years by filing a claim under this chapter so long as the spouse ~~((or the))~~, domestic partner, heir, or devisee meets the qualifications set out in this section.

NEW SECTION. Sec. 9. This act applies for taxes levied for collection in 2020 and thereafter.

NEW SECTION. Sec. 10. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Dhingra moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5160.

Senator Dhingra spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Dhingra that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5160.

The motion by Senator Dhingra carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5160 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5160, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5160, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Takko, Wagoner, Walsh, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Becker, Braun, Brown, Ericksen, Holy, Honeyford, King, Schoesler, Short, Van De Wege and Warnick

Excused: Senators Fortunato, Padden and Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5160, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5362 with the following amendment(s): 5362-S AMH PELL H3219.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that counties that border other states and Canada experience a significant problem of residents of Washington state who evade taxes and fees by failing to register their vehicles, aircraft, and vessels in Washington state. According to a 2007 Washington State University study, the department of revenue lost eighty million dollars over the previous five years to persons avoiding taxes and fees in this manner. It was also estimated in the study that twenty thousand vehicles were illegally registered in Oregon to residents of Clark county, Washington. The problem has undoubtedly grown worse in the decade since the study was completed resulting in hundreds of millions of dollars in lost revenue to state and local coffers as these new residents fail to pay their fair share for public services. Moreover, a public safety risk is created when inaccurate information is provided to law enforcement or insurance companies in the event of an accident or infraction.

(2) Current statutes contain monetarily significant penalties that are appropriate given the scope of the harm. It is the intent of the legislature that law enforcement and prosecutors proceed against violators to the fullest extent of the law. In order to give them more tools and ensure compliance with the law, it is the intent of the legislature to set up a deferral program consistent with other programs in the state that allows defendants to obtain dismissal of charges if they take certain remedial steps. It is the intent of the legislature that the punishment for those who do not comply with the deferral program remain subject to current penalties.

NEW SECTION. Sec. 2. (1) Any county may set up a deferral program for persons who receive a citation for failing to register a vehicle, aircraft, or vessel under RCW 46.16A.030, 47.68.255, or 88.02.400. Under the deferral program:

(a) If the person has received a criminal citation for failure to

register a vehicle under RCW 46.16A.030, an aircraft under RCW 47.68.255, or a vessel under RCW 88.02.400, the defendant may petition the court for a deferred prosecution conditioned upon the defendant completing the criteria in (b) of this subsection within ninety days of the court granting the deferral.

(b) To be eligible for a deferred prosecution under (a) of this subsection, the court shall dismiss the charge if the court receives satisfactory proof within ninety days that the person:

- (i) Has paid a five hundred dollar fine;
- (ii) Has a valid Washington state driver's license; and
- (iii) Has registered the vehicle, aircraft, or vessel that was the subject of the citation.

(c) Before entering an order deferring prosecution, the court shall make specific findings that: (i) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (ii) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (iii) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (iv) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

(d) If the defendant successfully completes the conditions required under the deferred prosecution, the court shall dismiss the charges pending against the defendant.

(e) If the court finds that the defendant has not successfully completed the conditions required under the deferred prosecution, the court shall remove the defendant from deferred prosecution and enter a judgment.

(2) The deferral program described in this section does not apply to persons who have received a previous conviction or deferral for failing to register a vehicle under RCW 46.16A.030, an aircraft under RCW 47.68.255, or a vessel under RCW 88.02.400.

(3) Fines generated pursuant to the deferral program established in subsection (1) of this section shall be used by the county for the purpose of enforcement and prosecution of registration requirements under RCW 46.16A.030, 47.68.250, or 88.02.550.

Sec. 3. RCW 46.16A.030 and 2011 c 171 s 43 and 2011 c 96 s 31 are each reenacted and amended to read as follows:

(1) Vehicles must be registered as required by this chapter and must display license plates or decals assigned by the department.

(2) It is unlawful for a person to operate any vehicle on a public highway of this state without having in full force and effect a current and proper vehicle registration and displaying license plates on the vehicle.

(3) Vehicle license plates or registration certificates, whether original issues or duplicates, may not be issued or furnished by the department until the applicant makes satisfactory application for a certificate of title or presents satisfactory evidence that a certificate of title covering the vehicle has been previously issued.

(4) Failure to make initial registration before operating a vehicle on the public highways of this state is a traffic infraction. A person committing this infraction must pay a fine of five hundred twenty-nine dollars, which may not be suspended(~~(; deferred,)~~) or reduced. This fine is in addition to any delinquent taxes and fees that must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion. The five hundred twenty-nine dollar fine must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250.

(5) Failure to renew an expired registration before operating a vehicle on the public highways of this state is a traffic infraction.

(6) It is a gross misdemeanor for a resident, as identified in RCW 46.16A.140, to register a vehicle in another state, evading the payment of any tax or vehicle license fee imposed in connection with registration. It is punishable, in lieu of the fine in subsection (4) of this section, as follows:

(a) For a first offense:

(i) Up to three hundred sixty-four days in the county jail;

(ii) Payment of a fine of five hundred twenty-nine dollars plus any applicable assessments, which may not be suspended(~~(; deferred,)~~) or reduced. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of one thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, which may not be suspended(~~(; deferred,)~~) or reduced; and

(iv) The delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, and which may not be suspended(~~(; deferred,)~~) or reduced;

(b) For a second or subsequent offense:

(i) Up to three hundred sixty-four days in the county jail;

(ii) Payment of a fine of five hundred twenty-nine dollars plus any applicable assessments, which may not be suspended, deferred, or reduced, except as provided in section 2 of this act. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of five thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, which may not be suspended(~~(; deferred,)~~) or reduced; and

(iv) The amount of delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, and which may not be suspended(~~(; deferred,)~~) or reduced.

(7) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

Sec. 4. RCW 47.68.255 and 2010 c 161 s 1147 are each amended to read as follows:

A person who is required to register an aircraft under this chapter and who registers an aircraft in another state or foreign country evading the Washington aircraft excise tax is guilty of a gross misdemeanor. For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, no part of which may be suspended or deferred, except as provided in section 2 of this act. Excise taxes owed and fines assessed (~~(with)~~) must be deposited in the manner provided under RCW 46.16A.030(6).

Sec. 5. RCW 88.02.400 and 2010 c 161 s 1007 are each amended to read as follows:

(1) It is a gross misdemeanor punishable as provided under chapter 9A.20 RCW for any person owning a vessel subject to taxation under chapter 82.49 RCW to:

(a) Register a vessel in another state to avoid Washington state vessel excise tax required under chapter 82.49 RCW; or

(b) Obtain a vessel dealer's license for the purpose of evading excise tax on vessels under chapter 82.49 RCW.

(2) For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, which may not be suspended or deferred, except

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as provided in section 2 of this act.

(3) Excise taxes owed and fines assessed must be deposited in the manner provided under RCW 46.16A.030(6).

NEW SECTION. Sec. 6. Section 2 of this act constitutes a new chapter in Title 10 RCW."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wilson, L. moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5362.

Senator Wilson, L. spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Wilson, L. that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5362.

The motion by Senator Wilson, L. carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5362 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5362, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5362, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Absent: Senator Dhingra

Excused: Senator Sheldon

SUBSTITUTE SENATE BILL NO. 5362, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Wilson, C., Senator Dhingra was excused.

MESSAGE FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5183 with the following amendment(s): 5183-S.E AMH GREG H3099.1

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

"Sec. 17. RCW 59.20.060 and 2019 c ... (ESHB 1582) s 3 are

each amended to read as follows:

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

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

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

(c) The rules and regulations of the park;

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

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

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

(g)(i) A covenant by the landlord that, except for acts or events beyond the control of the landlord, the mobile home park will not be converted to a land use that will prevent the space that is the subject of the lease from continuing to be used for its intended use for a period of three years after the beginning of the term of the rental agreement;

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

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

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

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

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

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

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

(n) A statement of the expiration date of any conditional use, temporary use, or other land use permit subject to a fixed

expiration date that is necessary for the continued use of the land as a mobile home park; and

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

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

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

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

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

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

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

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

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

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

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

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

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

good cause exists for limiting dissemination of the unlawful detainer action ~~((in accordance with court rule GR-15)).~~

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

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

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

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

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Kuderer moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5183.

Senators Kuderer and Zeiger spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Kuderer that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5183.

The motion by Senator Kuderer carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5183 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5183, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5183, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Braun, Brown, Ericksen, Holy, Honeyford, King, Padden, Schoesler, Short and Wilson, L.

Excused: Senators Dhingra and Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5183, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

ONE HUNDRED FIFTH DAY, APRIL 28, 2019

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The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5091 with the following amendment(s): 5091-S2.E AMH ENGR H2874.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to provide the funding necessary to support a comprehensive and responsive education system that fully addresses the needs of students with disabilities eligible for special education. Under the current funding model, students with disabilities eligible for special education are funded as basic education students first, with additional funding provided through a statewide multiplier intended to meet the additional needs of each student as established in the student's individualized education program. Additionally, a safety net administered by the office of the superintendent of public instruction is available for school districts that demonstrate significant extra need beyond what they receive from the base funding formula.

The legislature notes that school districts across the state have identified the need for additional resources to create the educational environment necessary to give every student with an individualized education program the opportunity to succeed. It is the legislature's intent to provide immediate relief to school district special education programs by enhancing the supplemental funding school districts receive for every student in the program of special education and to provide easier access to the safety net when those base funds are not adequate.

Sec. 2. RCW 28A.150.392 and 2018 c 266 s 106 are each amended to read as follows:

(1)(a) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390.

(b) If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in any fiscal year, then the superintendent shall expend all available federal discretionary funds necessary to meet this need.

(2) Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall award additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas.

(b) In the determination of need, the committee shall consider additional available revenues from federal sources.

(c) Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(d) In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state revenues related to services for students eligible for special education(~~eligible students~~) and all federal revenues from federal impact aid, medicaid, and the individuals with disabilities education act-Part B and appropriate special projects. Awards associated with (e) and (f) of this subsection shall not exceed the total of a district's specific determination of need.

(e) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education (~~students~~). Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(f) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, which may include consideration of proximity to group homes, military bases, and regional hospitals. Safety net awards under this subsection (2)(f) shall be adjusted to reflect amounts awarded under (e) of this subsection.

(g) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education (~~students~~) served in residential schools as defined in RCW 28A.190.020, programs for juveniles under the department of corrections, and programs for juveniles operated by city and county jails to the extent they are providing a secondary program of education (~~for students enrolled in special education~~).

(h) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(i) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent of public instruction in accordance with chapter 318, Laws of 1999.

(j) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(3) The superintendent of public instruction shall adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. By December 1, 2018, the superintendent shall review and revise the rules to achieve full and complete implementation of the requirements of this subsection and subsection (4) of this section including revisions to rules that provide additional flexibility to access community impact awards. Before revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature. In adopting and revising the rules, the superintendent shall ensure the application process to access safety net funding is streamlined, timelines for submission are not in conflict, feedback to school districts is timely and provides sufficient information to allow school districts to understand how to correct any deficiencies in a safety net application, and that there is consistency between awards approved by school district and by application period. The office of the superintendent of public instruction shall also provide technical assistance to school districts in preparing and submitting special education safety net applications.

(4) On an annual basis, the superintendent shall survey districts regarding their satisfaction with the safety net process and consider feedback from districts to improve the safety net process. Each year by December 1st, the superintendent shall prepare and submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the survey results and those changes made to the safety net process as a result of the school district feedback.

(5) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(6) Beginning in the 2019-20 school year, a high-need student is eligible for safety net awards from state funding under

subsection (2)(e) and (g) of this section if the student's individualized education program costs exceed two and three-tenths times the average per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015.

Sec. 3. RCW 28A.150.415 and 2017 3rd sp.s. c 13 s 105 are each amended to read as follows:

(1) Beginning with the 2018-19 school year, the legislature shall begin phasing in funding for professional learning days for certificated instructional staff. At a minimum, the state must allocate funding for:

- (a) One professional learning day in the 2018-19 school year;
- (b) Two professional learning days in the 2019-20 school year; and
- (c) Three professional learning days in the 2020-21 school year.

(2) The office of the superintendent of public instruction shall calculate each school district's professional learning allocation as provided in subsection (1) of this section separate from the minimum state allocation for salaries as specified in RCW 28A.150.410 and associated fringe benefits on the apportionment reports provided to each school district. The professional learning allocation shall be equal to the proportional increase resulting from adding the professional learning days provided in subsection (1) of this section to the required minimum number of school days in RCW 28A.150.220(5)(a) applied to the school district's minimum state allocation for salaries and associated fringe benefits for certificated instructional staff as specified in the omnibus operating appropriations act. Professional learning allocations shall be included in per-pupil calculations, such as special education, for programs funded on a per-pupil basis.

(3) Nothing in this section entitles an individual certificated instructional staff to any particular number of professional learning days.

~~((3))~~ (4) The professional learning days must meet the definitions and standards provided in RCW 28A.415.430, 28A.415.432, and 28A.415.434.

Sec. 4. RCW 28A.150.390 and 2018 c 266 s 102 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and 28A.150.415.

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and ~~((enrolled in))~~ receiving special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; ~~((and))~~

(b)(i) Subject to the limitation in (b)(ii) of this subsection (2), a district's annual average ((full time equivalent basic education)) enrollment((, multiplied by the district's funded enrollment percent)) of resident students who are eligible for and receiving special education, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, multiplied by the district's base allocation per full-time equivalent student, multiplied by ((0.9609)) the special education cost multiplier rate of:

(A) In the 2019-20 school year, 0.995 for students eligible for and receiving special education.

(B) Beginning in the 2020-21 school year, either:

(I) 1.0075 for students eligible for and receiving special education and reported to be in the general education setting for eighty percent or more of the school day; or

(II) 0.995 for students eligible for and receiving special education and reported to be in the general education setting for less than eighty percent of the school day.

(ii) If the enrollment percent exceeds thirteen and five-tenths percent, the excess cost allocation calculated under (b)(i) of this subsection must be adjusted by multiplying the allocation by thirteen and five-tenths percent divided by the enrollment percent.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident ~~((special education))~~ annual average enrollment of students who are eligible for and receiving special education, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten and students enrolled in institutional education programs, as a percent of the district's annual average full-time equivalent basic education enrollment.

~~((d)) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or thirteen and five-tenths percent.~~

Sec. 5. RCW 43.09.2856 and 2018 c 266 s 406 are each amended to read as follows:

(1) Beginning with the 2019-20 school year, to ensure that school district local revenues are used solely for purposes of enriching the state's statutory program of basic education, the state auditor's regular financial audits of school districts must include a review of the expenditure of school district local revenues for compliance with RCW 28A.150.276, including the spending plan approved by the superintendent of public instruction under RCW 28A.505.240 and its implementation, and any supplemental contracts entered into under RCW 28A.400.200.

(2) If an audit under subsection (1) of this section results in findings that a school district has did not carry to comply with these requirements, then within ninety days of completing the audit the auditor must report the findings to the superintendent of public instruction, the office of financial management, and the education and operating budget committees of the legislature.

(3) The use of the state allocation provided for professional learning under RCW 28A.150.415 must be audited as part of the regular financial audits of school districts by the state auditor's office to ensure compliance with the limitations and conditions of RCW 28A.150.415.

(4)(a) The state auditor must conduct a financial or accountability audit of each school district by June 1, 2020, for the 2018-19 school year to include a review of the following:

(i) Special education revenues and the sources of those revenues, by school district; and

(ii) Special education expenditures and the object of those expenditures, by school district.

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(b) Special education data reported for each school district through the audits under this subsection must be compiled and submitted to the education committees of the legislature by December 1, 2020.

NEW SECTION. Sec. 6. Section 5 of this act expires December 1, 2021."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Wellman moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5091.

Senators Wellman and Wagoner spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Wellman that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5091.

The motion by Senator Wellman carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5091 by voice vote.

MOTION

On motion of Senator Bailey, Senator Rivers was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5091, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5091, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Rivers and Sheldon

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5091, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2168, by House Committee on Finance (originally sponsored by Tarleton)

Relating to tax preferences. Revised for 1st Substitute: Concerning tax preferences.

The measure was read the second time.

WITHDRAWAL OF AMENDMENT

On motion of Senator Becker and without objection, amendment no. 833 by Senator Becker on page 2, line 29 to Substitute House Bill No. 2168 was withdrawn.

MOTION

On motion of Senator Liias, the rules were suspended, Substitute House Bill No. 2168 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Liias, Becker and Braun spoke in favor of passage of the bill.

Senator Hasegawa spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2168.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2168 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Hasegawa

Excused: Senator Sheldon

SUBSTITUTE HOUSE BILL NO. 2168, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:37 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:03 p.m. by the President Pro Tempore, Senator Hasegawa presiding.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2159, by House Committee on Appropriations (originally sponsored by Ormsby)

Making expenditures from the budget stabilization account for declared catastrophic events.

The measure was read the second time.

MOTION

On motion of Senator Rolfes, the rules were suspended, Substitute House Bill No. 2159 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rolfes and Warnick spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2159.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2159 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Ericksen, Padden and Schoesler

SUBSTITUTE HOUSE BILL NO. 2159, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2140, by House Committee on Appropriations (originally sponsored by Sullivan, Dolan and Thai)

Relating to K-12 education funding. Revised for 1st Substitute: Concerning K-12 education funding.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.52.065 and 2018 c 295 s 1 are each amended to read as follows:

STATE PROPERTY TAX DEPOSIT.

(1) Except as otherwise provided in this section, subject to the limitations in RCW 84.55.010, in each year the state must levy for collection in the following year for the support of common schools of the state a tax of three dollars and sixty cents per thousand dollars of assessed value upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(2)(a) In addition to the tax authorized under subsection (1) of this section, the state must levy an additional property tax for the support of common schools of the state.

(i) For taxes levied for collection in calendar years 2018 through 2021, the rate of tax is the rate necessary to bring the

aggregate rate for state property tax levies levied under this subsection and subsection (1) of this section to a combined rate of two dollars and forty cents per thousand dollars of assessed value in calendar year 2019 and two dollars and seventy cents per thousand dollars of assessed value in calendar years 2018, 2020, and 2021. The state property tax levy rates provided in this subsection (2)(a)(i) are based upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(ii) For taxes levied for collection in calendar year 2022 and thereafter, the tax authorized under this subsection (2) is subject to the limitations of chapter 84.55 RCW.

(b)(i) Except as otherwise provided in this subsection, all taxes collected under this subsection (2) must be deposited into the state general fund.

(ii) For fiscal year 2019, (~~nine hundred thirty five million dollars of~~) taxes collected under this subsection (2) must be deposited into the education legacy trust account for the support of common schools.

(3) For taxes levied for collection in calendar years 2019 through 2021, the state property taxes levied under subsections (1) and (2) of this section are not subject to the limitations in chapter 84.55 RCW.

(4) For taxes levied for collection in calendar year 2022 and thereafter, the aggregate rate limit for state property taxes levied under subsections (1) and (2) of this section is three dollars and sixty cents per thousand dollars of assessed value upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(5) For property taxes levied for collection in calendar years 2019 through 2021, the rate of tax levied under subsection (1) of this section is the actual rate that was levied for collection in calendar year 2018 under subsection (1) of this section.

(6) As used in this section, "the support of common schools" includes the payment of the principal and interest on bonds issued for capital construction projects for the common schools.

Sec. 2. RCW 28A.300.780 and 2018 c 266 s 401 are each amended to read as follows:

HOLD HARMLESS.

(1) For the 2018-19 and 2019-20 school years, the office of the superintendent of public instruction shall allocate a hold-harmless payment to school districts if the sum of (b) of this subsection is greater than the sum of (a) of this subsection for either of the respective school years or if a school district meets the criteria under subsection (2) of this section.

(a) The current school year is calculated as the sum of (a)(i) through (iii) of this subsection using the enrollments and values in effect for that school year for the school district's:

(i) Formula-driven state allocations in part V of the state omnibus appropriations act for these programs: General apportionment, employee compensation adjustments, pupil transportation, special education programs, institutional education programs, transitional bilingual programs, highly capable, and learning assistance programs;

(ii) Local effort assistance funding received under chapter 28A.500 RCW; and

(iii) The lesser of the school district's voter-approved enrichment levy collection or the maximum levy authority provided under RCW 84.52.0531 for (~~the previous calendar~~) that school year.

(b) The baseline school year is calculated as the sum of (b)(i) through (iii) of this subsection using the current school year enrollments and the values in effect during the 2017-18 school

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year for the school district's:

(i) Formula-driven state allocations in part V of the state omnibus appropriations act for these programs: General apportionment, employee compensation adjustments, pupil transportation, special education programs, institutional education programs, transitional bilingual programs, highly capable, and learning assistance programs;

(ii) Local effort assistance funding received under chapter 28A.500 RCW; and

(iii) Maintenance and operation levy collection under RCW 84.52.0531 in the 2017 calendar year.

(2) From amounts appropriated in chapter 266, Laws of 2018, the superintendent of public instruction must prioritize hold harmless payments to districts that meet both the following criteria:

(a) The sum of the school district's enrichment levy under RCW 84.52.0531 and 2017 3rd sp.s. c 13 s 203 and local effort assistance under RCW 28A.500.015 is less than half of the sum of the maintenance and operations levy and local effort assistance provided under law as it existed on January 1, 2017. For purposes of the calculation in this subsection, the maintenance and operations levy is limited to the lesser of the voter-approved levy as of January 1, 2017, or the maximum levy under law as of January 1, 2017; and

(b) The adjusted assessed value of property within the school district as calculated by the department of revenue is greater than twenty billion dollars in calendar year 2017.

(3) Districts eligible for hold-harmless payments under subsection (1) of this section shall receive the difference between subsection (1)(b) and (a) of this section through the apportionment payment process in RCW 28A.510.250.

(4) The voters of the school district must approve an enrichment levy under RCW 84.52.0531 to be eligible for a hold-harmless payment under this section.

(5) This section expires December 31, 2020.

Sec. 3. RCW 28A.320.330 and 2018 c 266 s 302 are each amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1)(a) A general fund for the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(b) By the 2018-19 school year, a local revenue subfund of its general fund to account for the financial operations of a school district that are paid from local revenues. The local revenues that must be deposited in the local revenue subfund are enrichment levies and transportation vehicle levies collected under RCW 84.52.053, local effort assistance funding received under chapter 28A.500 RCW, and other school district local revenues including, but not limited to, grants, donations, and state and federal payments in lieu of taxes, but do not include other federal revenues, or local revenues that operate as an offset to the district's basic education allocation under RCW 28A.150.250. School districts must track expenditures from this subfund separately to account for the expenditure of each of these streams of revenue by source, and must provide any supplemental expenditure schedules required by the superintendent of public instruction or state auditor for purposes of RCW 43.09.2856.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, earnings from capital projects fund investments as

authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life. Such renovation and replacement shall include, but shall not be limited to, major repairs, exterior painting of facilities, replacement and refurbishment of roofing, exterior walls, windows, heating and ventilating systems, floor covering in classrooms and public or common areas, and electrical and plumbing systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f)(i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(g) Major equipment repair, painting of facilities, and other major preventative maintenance purposes. However, to the extent the funds are used for the purpose under this subsection (2)(g), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations. Based on the district's most recent two-year history of general fund maintenance expenditures, funds used for this purpose may not replace routine annual preventive maintenance expenditures made from the district's general fund.

(h) During the 2019-2021 fiscal biennium, renovation and replacement of facilities and systems, purchase or installation of items of equipment and furniture, including maintenance vehicles and machinery, and other preventative maintenance or infrastructure improvement purposes.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forestland revenues that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

Sec. 4. RCW 41.05.011 and 2018 c 260 s 4 are each amended to read as follows:

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

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055 and the school employees' benefits board established under RCW 41.05.740.

(3) "Dependent care assistance program" means a benefit plan whereby employees and school employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6)(a) "Employee" for the public employees' benefits board program includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (i) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county,

municipality, or other political subdivision of the state submits application materials to the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (ii) employees of employee organizations representing state civil service employees, at the option of each such employee organization; (iii) through December 31, 2019, employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (iv) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g); (v) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (vi) through December 31, 2019, employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(b) Effective January 1, 2020, "school employee" for the school employees' benefits board program includes:

(i) All employees of school districts((~~educational service districts~~)) and charter schools established under chapter 28A.710 RCW;

(ii) Represented employees of educational service districts; and
(iii) Effective January 1, 2024, all employees of educational service districts.

(7) "Employee group" means employees of a similar employment type, such as administrative, represented classified, nonrepresented classified excluding such employees in educational service districts until December 31, 2023, confidential, represented certificated, or nonrepresented certificated excluding such employees in educational service districts until December 31, 2023, within a school employees' benefits board organization.

(8)(a) "Employer" for the public employees' benefits board program means the state of Washington.

(b) "Employer" for the school employees' benefits board program means school districts and educational service districts and charter schools established under chapter 28A.710 RCW.

(9) "Employer group" means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, employee organizations representing state civil service employees, and through December 31, 2019, school districts, ((educational service districts, and)) charter schools, and through December 31, 2023, educational service districts obtaining employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the public employees' benefits board.

(10)(a) "Employing agency" for the public employees' benefits board program means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, or other political subdivision; and a tribal government covered by this chapter.

(b) "Employing agency" for the school employees' benefits board program means school districts, educational service districts, and charter schools.

(11) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours

but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(12) "Flexible benefit plan" means a benefit plan that allows employees and school employees to choose the level of health care coverage provided and the amount of employee or school employee contributions from among a range of choices offered by the authority.

(13) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(14) "Medical flexible spending arrangement" means a benefit plan whereby state and school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(15) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(16) "Plan year" means the time period established by the authority.

(17) "Premium payment plan" means a benefit plan whereby public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(18) "Public employee" has the same meaning as employee and school employee.

(19) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district, educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district, educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(20) "Salary" means a state or school employee's monthly salary or wages.

(21) "Salary reduction plan" means a benefit plan whereby public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(22) "School employees' benefits board organization" means a public school district or educational service district or charter school established under chapter 28A.710 RCW that is required to participate in benefit plans provided by the school employees' benefits board.

(23) "School year" means school year as defined in RCW 28A.150.203(11).

(24) "Seasonal employee" means a state employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(25) "Separated employees" means persons who separate from

employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(26) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(27) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

Sec. 5. RCW 41.05.050 and 2018 c 260 s 10 are each amended to read as follows:

(1) Every: (a) Department, division, or separate agency of state government; (b) county, municipal, school district, educational service district, or other political subdivisions; and (c) tribal governments as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, other political subdivision, or a tribal government for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups, except as provided in subsection (4) of this section.

(2) To account for increased cost of benefits for the state and for state employees, the authority may develop a rate surcharge applicable to participating counties, municipalities, other political subdivisions, and tribal governments.

(3) The contributions of any: (a) Department, division, or separate agency of the state government; (b) county, municipal, or other political subdivisions; (c) any tribal government as are covered by this chapter; and (d) school districts, educational service districts, and charter schools, shall be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(4)(a) Until January 1, 2020, the authority shall collect from each participating school district and educational service district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and family size as would be charged to employees, for groups of school district and educational service district employees enrolled in authority plans. The authority may collect these amounts in accordance with the school district or educational service district fiscal year, as described in RCW 28A.505.030.

(b)(i) For all groups of school district or educational service district employees enrolling in authority plans for the first time after September 1, 2003, and until January 1, 2020, the authority shall collect from each participating school district or educational service district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and by family size as would be charged to employees,

only if the authority determines that this method of billing the school districts and educational service districts will not result in a material difference between revenues from school districts and educational service districts and expenditures made by the authority on behalf of school districts and educational service districts and their employees. The authority may collect these amounts in accordance with the school district or educational service district fiscal year, as described in RCW 28A.505.030.

(ii) For all groups of educational service district employees' enrolling in plans developed by the public employees' benefits board after January 1, 2020, and until January 1, 2024, the authority shall collect from each participating educational service district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and by family size as would be charged to employees, only if the authority determines that this method of billing the educational service districts will not result in a material difference between revenues from educational service districts and expenditures made by the authority on behalf of educational service districts and their employees. The authority may collect these amounts in accordance with the educational service district fiscal year, as described in RCW 28A.505.030.

(c) Until January 1, 2020, if the authority determines at any time that the conditions in (b) of this subsection cannot be met, the authority shall offer enrollment to additional groups of school and educational service district employees on a tiered rate structure until such time as the authority determines there would be no material difference between revenues and expenditures under a composite rate structure for all school and educational service district employees enrolled in authority plans.

(d)(i) Beginning January 1, 2020, all school districts, represented employees of educational service districts, and charter schools shall commence participation in the school employees' benefits board program established under RCW 41.05.740. All school districts, represented employees of educational service districts, charter schools, and all school district employee groups participating in the public employees' benefits board plans before January 1, 2020, shall thereafter participate in the school employees' benefits board program administered by the authority. All school districts, represented employees of educational service districts, and charter schools shall provide contributions to the authority for insurance and health care plans for school employees and their dependents. These contributions must be provided to the authority for all eligible school employees eligible for benefits under RCW 41.05.740(6)(d), including school employees who have waived their coverage; contributions to the authority are not required for individuals eligible for benefits under RCW 41.05.740(6)(e) who waive their coverage.

(ii) Beginning January 1, 2024, all educational service districts shall participate in the school employees' benefits board program.

(e) For the purposes of this subsection, "tiered rates" means the amounts the authority must pay to insuring entities by plan and by family size.

(f) Notwithstanding this subsection and RCW 41.05.065(4), the authority may allow school districts and educational service districts enrolled on a tiered rate structure prior to September 1, 2002, and until January 1, 2020, to continue participation based on the same rate structure and under the same conditions and eligibility criteria.

(5) The authority shall transmit a recommendation for the amount of the employer contributions to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature.

Sec. 6. RCW 28A.400.350 and 2018 c 260 s 23 are each

amended to read as follows:

(1) The board of directors of any of the state's school districts or educational service districts may make available medical, dental, vision, liability, life, accident, disability, and salary protection or insurance, direct agreements as defined in chapter 48.150 RCW, or any one of, or a combination of the types of employee benefits enumerated in this subsection, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district or educational service district, and their dependents. Except as provided in subsection (6) of this section, such coverage may be provided by contracts or agreements with private carriers, with the state health care authority, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law. Any direct agreement must comply with RCW 48.150.050.

(2)(a) Whenever funds are available for these purposes the board of directors of the school district or educational service district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts or educational service districts and their dependents. The premiums on such liability insurance shall be borne by the school district or educational service district.

(b) After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(c) After December 31, 2019, school district contributions to any employee insurance that is purchased through the health care authority must conform to the requirements established by chapter 41.05 RCW and the school employees' benefits board.

(3) For school board members, educational service district board members, and students, the premiums due on such protection or insurance shall be borne by the assenting school board member, educational service district board member, or student. The school district or educational service district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school, school district, or educational service district. The school district board of directors and the educational service district board may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors or the educational service district board, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district or educational service district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts or agreements for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW.

(5)(a) Until the creation of the school employees' benefits

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board under RCW 41.05.740, school districts offering medical, vision, and dental benefits shall:

(i) Offer a high deductible health plan option with a health savings account that conforms to section 223, part VII of subchapter 1 of the internal revenue code of 1986. School districts shall comply with all applicable federal standards related to the establishment of health savings accounts;

(ii) Make progress toward employee premiums that are established to ensure that full family coverage premiums are not more than three times the premiums for employees purchasing single coverage for the same coverage plan, unless a subsequent premium differential target is defined as a result of the review and subsequent actions described in RCW 41.05.655;

(iii) Offer employees at least one health benefit plan that is not a high deductible health plan offered in conjunction with a health savings account in which the employee share of the premium cost for a full-time employee, regardless of whether the employee chooses employee-only coverage or coverage that includes dependents, does not exceed the share of premium cost paid by state employees during the state employee benefits year that started immediately prior to the school year.

(b) All contracts or agreements for employee benefits must be held to responsible contracting standards, meaning a fair, prudent, and accountable competitive procedure for procuring services that includes an open competitive process, except where an open process would compromise cost-effective purchasing, with documentation justifying the approach.

(c) School districts offering medical, vision, and dental benefits shall also make progress on promoting health care innovations and cost savings and significantly reduce administrative costs.

(d) All contracts or agreements for insurance or protection described in this section shall be in compliance with chapter 3, Laws of 2012 2nd sp. sess.

(6) The authority to make available basic and optional benefits to school employees under this section expires December 31, 2019, except for nonrepresented employees of educational service districts for which the authority expires December 31, 2023. Beginning January 1, 2020, school districts, for all school employees, and educational service districts, for represented employees, shall make available basic and optional benefits through plans offered by the health care authority and the school employees' benefits board. Beginning January 1, 2024, educational service districts, for nonrepresented employees, shall make available basic and optional benefits through plans offered by the health care authority and the school employees' benefits board.

NEW SECTION. Sec. 7. (1) The Washington state health care authority, in consultation with the office of the superintendent of public instruction, educational service districts, and the office of financial management, shall study employee health benefits in educational service districts and the impact of participation in the school employees' benefits board program on educational service districts and their employees. The study must include an analysis of:

(a) Health benefit plans provided to educational service district employees and their costs;

(b) Estimated costs to educational service districts to participate in the school employees' benefits board program;

(c) Comparisons of costs, benefits offered, and employees covered, between educational service district health benefits and school employees' benefits board health benefits if adopted; and

(d) Revenue from school districts, state, federal, and other sources that support educational service district services and their ability to support rates negotiated for the school employees' benefits board program.

(2) By December 31, 2020, and in compliance with RCW 43.01.036, the Washington state health care authority must report findings from the study to the fiscal committees of the legislature.

NEW SECTION. Sec. 8. EFFECTIVE DATE FOR PROPERTY TAX DEPOSIT AND HOLD HARMLESS. Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Sec. 9. RCW 28C.--.-- and 2019 c ... (E2SHB 2158) s 56 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the career connected learning grant program is established as a competitive grant program to advance the career connect Washington vision under RCW 28C.--.-- (section 55, chapter . . . (E2SHB 2158), Laws of 2019). The employment security department shall administer the program. The governor's office shall work with the employment security department to establish grant criteria and guide the process for selection with consultation from the career connected learning cross-agency work group.

(2) The purpose of the career connected learning grant program is to create career connected learning opportunities, including career awareness and exploration, career preparation, and career launch programs, that are both tailored to the local needs of students and employers and designed so that students may receive high school or college credit across industries and regions of the state to the maximum extent possible.

(3) The program funds shall be used for two overarching purposes:

(a) Support regional career connected learning and work-integrated learning networks in both rural and urban areas under subsection (5) of this section; and

(b) Support career connected learning program intermediaries working within and across regions who partner with multiple employers, labor partners, and educational institutions, work with K-12 and postsecondary career representatives to develop curricula for new and innovative programs, and scale existing career awareness and exploration, career preparation, and endorsed career launch programs.

(4) The program administrator shall consult with the governor's office and the career connected learning cross-agency work group established in RCW 28C.--.-- (section 54, chapter . . . (E2SHB 2158), Laws of 2019) to develop a formal request for proposal for both the regional career connected learning and work-integrated learning networks and the program intermediaries.

(5)(a) Proposals for regional career connected learning and work-integrated learning networks and intermediaries may be sought from applicants within the geographic areas of the nine educational service districts. Successful applicants shall convene and manage regional, cross-industry networks that will lead to the expansion of career connected learning opportunities.

(b) Regional career connected learning and work-integrated learning network applicants must demonstrate regional knowledge and status as a trusted partner of industry and education stakeholders, a track record of success with career connected learning and aligned initiatives, and a commitment to equity. Regional career connected learning networks may include, but are not limited to, regional education networks, school districts, educational service districts, higher education institutions, workforce development councils, chambers of commerce, industry associations, joint labor management councils, multiemployer training partnerships, economic

development councils, and nonprofit organizations.

(6) Eligible program intermediary applicants may include, but are not limited to, new or existing industry associations, joint labor management councils, regional networks, career technical student organizations, postsecondary education and training institutions working with multiple employer partners, state agencies, and other community-based organizations and expanded learning partners.

(7) Program intermediaries must work with appropriate faculty and staff at the state universities, the regional universities, and the state college, and K-12 education representatives, to expand the number of career launch program credits that may be articulated and transferred to postsecondary degree programs.

(8) Subject to the availability of amounts appropriated for this specific purpose, the employment security department, as the administrator of the program, has the authority to utilize funds deposited in the career connected learning account for the purposes of the program.

(9) During the 2019-2021 fiscal biennium, the employment security department must provide sufficient funding from amounts appropriated for the program to the office of the superintendent of public instruction to provide a grant to each of the nine educational service districts for costs of employing one full-time equivalent employee to support the expansion of career connected learning opportunities.

NEW SECTION. Sec. 10. Section 9 of this act takes effect only if chapter . . . (Engrossed Second Substitute House Bill No. 2158), Laws of 2019 is enacted by the effective date of this section."

On page 1, line 1 of the title, after "funding;" strike the remainder of the title and insert "amending RCW 84.52.065, 28A.300.780, 28A.320.330 41.05.011, 41.05.050, 28A.400.350, and 28C.---; creating a new section; providing a contingent effective date; and declaring an emergency."

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2140.

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

MOTION

On motion of Senator Liias, the rules were suspended, Engrossed Substitute House Bill No. 2140 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Braun and Rolfes spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2140 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2140 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh,

Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Brown, Ericksen, Hawkins, Holy, Honeyford, King, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2140, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Vice President Pro Tempore Conway assumed the chair.

MOTION

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

MESSAGE FROM THE HOUSE

April 19, 2019

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1326 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1326.

Senator Pedersen spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be motion by Senator Pedersen that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1326.

The motion by Senator Pedersen carried and the Senate receded from its amendments to Substitute House Bill No. 1326.

MOTION

On motion of Senator Pedersen, the rules were suspended and Substitute House Bill No. 1326 was returned to second reading for the purposes of amendment.

MOTION

Senator Pedersen moved that the following striking amendment no. 778 by Senator Pedersen be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act may be known and cited as Jennifer and Michella's law.

NEW SECTION. Sec. 2. The legislature finds that the state of Washington has for decades routinely required collection of DNA biological samples from certain convicted offenders and persons required to register as sex and kidnapping offenders. The resulting DNA data has proven to be an invaluable component of forensic evidence analysis. Not only have DNA matches focused law enforcement efforts and resources on productive leads, assisted in the expeditious conviction of guilty persons, and provided identification of recidivist and cold case offenders,

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DNA analysis has also played a crucial role in absolving wrongly suspected and convicted persons and in providing resolution to those who have tragically suffered unimaginable harm.

In an effort to solve cold cases and unsolved crimes, to provide closure to victims and their family members, and to support efforts to exonerate the wrongly accused or convicted, the legislature finds that procedural improvements and measured expansions to the collection and analysis of lawfully obtained DNA biological samples are both appropriate and necessary.

Sec. 3. RCW 43.43.754 and 2017 c 272 s 4 are each amended to read as follows:

(1) A biological sample must be collected for purposes of DNA identification analysis from:

(a) Every adult or juvenile individual convicted of a felony, or any of the following crimes (or equivalent juvenile offenses):

(i) Assault in the fourth degree where domestic violence as defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041, 9.94A.030);

(ii) Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835);

(iii) Communication with a minor for immoral purposes (RCW 9.68A.090);

(iv) Custodial sexual misconduct in the second degree (RCW 9A.44.170);

(v) Failure to register (~~RCW 9A.44.130 for persons convicted on or before June 10, 2010, and RCW 9A.44.132 for persons convicted after June 10, 2010~~) chapter 9A.44 RCW);

(vi) Harassment (RCW 9A.46.020);

(vii) Patronizing a prostitute (RCW 9A.88.110);

(viii) Sexual misconduct with a minor in the second degree (RCW 9A.44.096);

(ix) Stalking (RCW 9A.46.110);

(x) Indecent exposure (RCW 9A.88.010);

(xi) Violation of a sexual assault protection order granted under chapter 7.90 RCW; and

(b) Every adult or juvenile individual who is required to register under RCW 9A.44.130.

(2)(a) A municipal jurisdiction may also submit any biological sample to the laboratory services bureau of the Washington state patrol for purposes of DNA identification analysis when:

(i) The sample was collected from a defendant upon conviction for a municipal offense where the underlying ordinance does not adopt the relevant state statute by reference but the offense is otherwise equivalent to an offense in subsection (1)(a) of this section;

(ii) The equivalent offense in subsection (1)(a) of this section was an offense for which collection of a biological sample was required under this section at the time of the conviction; and

(iii) The sample was collected on or after June 12, 2008, and before January 1, 2020.

(b) When submitting a biological sample under this subsection, the municipal jurisdiction must include a signed affidavit from the municipal prosecuting authority of the jurisdiction in which the conviction occurred specifying the state crime to which the municipal offense is equivalent.

(3) Law enforcement may submit to the forensic laboratory services bureau of the Washington state patrol, for purposes of DNA identification analysis, any lawfully obtained biological sample within its control from a deceased offender who was previously convicted of an offense under subsection (1)(a) of this section, regardless of the date of conviction.

(4) If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted.

~~((3))~~ (5) Biological samples shall be collected in the

following manner:

(a) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, and ~~((do serve))~~ are serving a term of confinement in a city or county jail facility, the city or county jail facility shall be responsible for obtaining the biological samples.

(b) The local police department or sheriff's office shall be responsible for obtaining the biological samples for:

(i) Persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility, ~~((and do not serve a term of confinement in))~~ department of children, youth, and families facility, or a city or county jail facility; and

(ii) Persons who are required to register under RCW 9A.44.130.

(c) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of ~~((social and health services))~~ children, youth, and families facility, the facility holding the person shall be responsible for obtaining the biological samples as part of the intake process. If the facility did not collect the biological sample during the intake process, then the facility shall collect the biological sample as soon as is practicable. For those persons incarcerated before June 12, 2008, who have not yet had a biological sample collected, priority shall be given to those persons who will be released the soonest.

~~((4))~~ (6) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who will not serve a term of confinement, the court shall order the person to report to the local police department or sheriff's office as provided under subsection (5)(b)(i) of this section within a reasonable period of time established by the court in order to provide a biological sample. The court must further inform the person that refusal to provide a biological sample is a gross misdemeanor under this section.

(7) Any biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other tests for identification analysis and prosecution of a criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the federal bureau of investigation combined DNA index system.

~~((5))~~ (8) The forensic laboratory services bureau of the Washington state patrol is responsible for testing performed on all biological samples that are collected under ~~((subsection (1) of))~~ this section, to the extent allowed by funding available for this purpose. ~~((The director shall give priority to testing on samples collected from those adults or juveniles convicted of a felony or adjudicated guilty of an equivalent juvenile offense that is defined as a sex offense or a violent offense in RCW 9.94A.030.))~~ Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

~~((6))~~ (9) This section applies to:

(a) All adults and juveniles to whom this section applied prior to June 12, 2008;

(b) All adults and juveniles to whom this section did not apply prior to June 12, 2008, who:

(i) Are convicted on or after June 12, 2008, of an offense listed in subsection (1)(a) of this section on the date of conviction; or

(ii) Were convicted prior to June 12, 2008, of an offense listed in subsection (1)(a) of this section and are still incarcerated on or after June 12, 2008; ~~(and)~~

(c) All adults and juveniles who are required to register under RCW 9A.44.130 on or after June 12, 2008, whether convicted before, on, or after June 12, 2008; and

(d) All samples submitted under subsections (2) and (3) of this section.

~~((7))~~ (10) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

~~((8))~~ (11) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks. No cause of action may be brought against the state based upon the analysis of a biological sample authorized to be taken pursuant to a municipal ordinance if the conviction or adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including, but not limited to, posttrial or postfact-finding motions, appeals, or collateral attacks.

~~((9))~~ (12) A person commits the crime of refusal to provide DNA if the person ~~(has a duty to register under RCW 9A.44.130 and the person)~~ willfully refuses to comply with a legal request for a DNA sample as required under this section. The refusal to provide DNA is a gross misdemeanor.

Sec. 4. RCW 9A.44.132 and 2015 c 261 s 5 are each amended to read as follows:

(1) A person commits the crime of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a felony sex offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) The failure to register as a sex offender pursuant to this subsection is a class C felony if:

(i) It is the person's first conviction for a felony failure to register; or

(ii) The person has previously been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law.

(b) If a person has been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law, on two or more prior occasions, the failure to register under this subsection is a class B felony.

(2) A person is guilty of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a sex offense other than a felony and knowingly fails to comply with any of the requirements of RCW 9A.44.130. The failure to register as a sex offender under this subsection is a gross misdemeanor.

(3) A person commits the crime of failure to register as a kidnapping offender if the person has a duty to register under RCW 9A.44.130 for a kidnapping offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) If the person has a duty to register for a felony kidnapping offense, the failure to register as a kidnapping offender is a class C felony.

(b) If the person has a duty to register for a kidnapping offense other than a felony, the failure to register as a kidnapping offender is a gross misdemeanor.

~~(4) (A person commits the crime of refusal to provide DNA if the person has a duty to register under RCW 9A.44.130 and the person willfully refuses to comply with a legal request for a DNA sample as required under RCW 43.43.754(1)(b). The refusal to provide DNA is a gross misdemeanor.~~

~~(5))~~ Unless relieved of the duty to register pursuant to RCW 9A.44.141 and 9A.44.142, a violation of this section is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080."

On page 1, line 2 of the title, after "system;" strike the remainder of the title and insert "amending RCW 43.43.754 and 9A.44.132; and creating new sections."

Senators Pedersen and Padden spoke in favor of adoption of the striking amendment.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 778 by Senator Pedersen to Substitute House Bill No. 1326.

The motion by Senator Pedersen carried and striking amendment no. 778 was adopted by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1326 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1326 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Hasegawa

SUBSTITUTE HOUSE BILL NO. 1326, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 1:23 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

Senator McCoy announced a meeting of the Democratic Caucus immediately upon going at ease.

The Senate was called to order at 2:05 p.m. by President Pro Tempore Keiser.

REPORT OF THE CONFERENCE COMMITTEE

Engrossed Substitute House Bill No. 1160

April 28, 2019

MR. PRESIDENT:
MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute House Bill No. 1160, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

And the bill do pass as recommended by the conference committee.

Signed by Senators Hobbs, King and Saldaña; Representatives Barkis, Fey and Wylie.

MOTION

Senator Hobbs moved that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1160 be adopted.

Senators Hobbs, King, Fortunato, Schoesler and Lovelett spoke in favor of passage of the motion.

Senator Ericksen spoke against the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hobbs that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1160 be adopted.

The motion by Senator Hobbs carried and the Report of the Conference Committee was adopted by voice vote.

MOTION

On motion of Senator Wilson, C., Senators Frockt and Rolfes were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1160, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1160, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1160, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Hobbs: "Well, of course, I've got to take the time as a good chair of the committee to encourage, hopefully Madam President you will allow everyone to stand up and maybe a round of applause for transportation staff. They are not, they are probably in their offices watching right now, so thank you."

The senate rose and recognized the work of the staff of the Committee on Transportation.

Senator Hobbs: "Yes Madam President, you know they spent a lot of long nights and weekends working on this project, in your amendments. And, of course, I want to thank the good Senator, Senator King, my ranking, and Senator Saldaña. Thank you, and Senator Sheldon, for working together this whole time and, finally, getting this transportation budget. And, and I'd like to say that the only bad thing was that we're always done first and unfortunately I lost. And I am the last one that got out of the Code Reviser's Office but anyway, I'm glad this part is done. So thank you everyone for your support."

PERSONAL PRIVILEGE

Senator Liias: "Thank you Madam President. I join Senator Hobbs in his great comments about our Senate Committee Services and caucus staff who work on transportation but I'd like to particularly single out David Ward, who works for Senate Committee Services, for many many years of wonderful service to the Senate and to the people of Washington State. He is leaving the Senate family to go work at the Joint Transportation Committee. So, he won't be very far away but just wanted to specifically thank David for not just this session but during Connecting Washington. And I, I hate to admit it, even when I was in the House, I appreciated David Ward and his contributions to the transportation negotiations. So, I'm sure that David is watching, particularly want to thank him for his long and dedicated service and we look forward to seeing what comes next for him in public service. Thank you Madam President."

PERSONAL PRIVILEGE

Senator King: "I just want to echo the same sentiments that the previous speaker made. David has been a stalwart in the Transportation Committee, what do we call it? Anyway, Services. He just does an absolutely great job. His institutional knowledge is what we're going to miss. I think he thinks this is going to the Joint Transportation Committee is going to be like maybe semi-retirement but, David, we have news for you pal, we're going to work you hard over there. But we are very much going to miss you in the Senate Transportation but we wish you well."

MESSAGES FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1101,
SUBSTITUTE HOUSE BILL NO. 1102,

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 28, 2019

MR. PRESIDENT:
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1406,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1768,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2158,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2161,
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

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

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2042, by House Committee on Finance (originally sponsored by Fey, Orcutt, Slatter, Doglio, Tharinger and Ramos)

Advancing green transportation adoption.

The measure was read the second time.

MOTION

Senator Saldaña moved that the following committee striking amendment by the Committee on Transportation be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that increasing the rate of adoption of electric vehicles and vessels and other clean alternative fuel vehicles will help to reduce harmful air pollution from exhaust emissions, including greenhouse gas emissions, in the state. The legislature also finds that an increased reliance on greener transit options will help to further reduce harmful air pollution from exhaust emissions. The legislature further finds that support for clean alternative fuel infrastructure can help to increase adoption of green transportation in the state, as noted in a 2015 joint transportation committee report. It is therefore the legislature's intent to drive green vehicle and vessel adoption and increased green transit use by: (1) Establishing and extending tax incentive programs for alternative fuel vehicles and related infrastructure, including for commercial vehicles; (2) providing funding for a capital grant program to assist transit authorities in reducing the carbon output of their fleets; (3) increasing public and private electric utilities' ability to invest in electric vehicle charging infrastructure; (4) establishing a technical assistance program for public agencies within the Washington State University's energy program; (5) funding a pilot program to test methods for facilitating access to alternative fuel vehicles and alternative fuel vehicle infrastructure by low-income residents of the state; (6) funding a study to examine opportunities to provide financing assistance to lower-income residents of the state who would like to purchase an electric vehicle; and (7) establishing a tax incentive program for certain electric vessels.

Sec. 2. RCW 28B.30.903 and 2010 c 37 s 1 are each amended to read as follows:

(1) The Washington State University extension energy program shall provide information, technical assistance, and consultation on physical plant operation, maintenance, and construction issues to state and local governments, tribal governments, and nonprofit organizations through its plant operations support program. The Washington State University extension energy program may not enter into facilities design or construction contracts on behalf of state or local government agencies, tribal governments, or nonprofit organizations. The plant operations support program created in this section must be funded by voluntary subscription charges, service fees, and other funding acquired by or provided to Washington State University

for such purposes.

(2) Subject to the availability of amounts appropriated for this specific purpose, the Washington State University extension energy program shall establish and administer a technical assistance and education program focused on the use of alternative fuel vehicles. Education and assistance may be provided to public agencies, including local governments and other state political subdivisions.

Sec. 3. RCW 47.04.350 and 2015 3rd sp.s. c 44 s 403 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department's public-private partnership office must develop and maintain a ((pilot)) program to support the deployment of ((electric)) clean alternative fuel vehicle charging and refueling infrastructure that is supported by private financing.

(2) The department must define corridors in which bidders may propose to install electric vehicle charging infrastructure or hydrogen fueling stations, and may update these corridors over time as needed. Alternatively, a bidder may propose a corridor in which the bidder proposes to install electric vehicle infrastructure or hydrogen fueling stations if the department has adopted rules allowing such a proposal and establishing guidelines for how such a proposal will be considered.

(3)(a) For bid proposals under this section, the department must require the following:

(i) Bidders must have private sector partners contributing to the project who stand to gain indirect value from development of the project, such as motor vehicle manufacturers, retail stores, or tourism stakeholders;

(ii) Bidders must demonstrate that the proposed project will be valuable to ((electric)) clean alternative fuel vehicle drivers and will address an existing gap in the state's ((electric vehicle charging station)) low carbon transportation infrastructure;

(iii) Projects must be expected to be profitable and sustainable for the owner-operator and the private partner; and

(iv) Bidders must specify how the project captures the indirect value of charging or refueling station deployment to the private partner.

(b) The department may adopt rules that require any other criteria for a successful project.

(4) In evaluating proposals under this section, the department may use the electric vehicle financial analysis tool that was developed in the joint transportation committee's study into financing electric vehicle charging station infrastructure.

(5)(a) After selecting a successful proposer under this section, the department may provide a loan or grant to the proposer.

(b) Grants and loans issued under this subsection must be funded from the electric vehicle ((charging infrastructure)) account created in RCW 82.44.200.

(c) Any project selected for support under this section is eligible for only one grant or loan as a part of the ((pilot)) program.

(6) The department may conduct preliminary workshops with potential bidders and other potential private sector partners to determine the best method of designing and maintaining the ((pilot)) program, discuss how to develop and maintain the partnerships among the private sector partners that may receive indirect value, and any other issues relating to the implementation and administration of this section. The department should consider regional workshops to engage potential business partners from across the state.

(7) The department must adopt rules to implement and administer this section.

ONE HUNDRED FIFTH DAY, APRIL 28, 2019

2019 REGULAR SESSION

Sec. 4. 2019 c ... (SHB 1512) s 1 (uncodified) is amended to read as follows:

The legislature finds that:

(1) Programs for the electrification of transportation have the potential to allow electric utilities to optimize the use of electric grid infrastructure, improve the management of electric loads, and better manage the integration of variable renewable energy resources. Depending upon each utility's unique circumstances, electrification of transportation programs may provide cost-effective energy efficiency, through more efficient use of energy resources, and more efficient use of the electric delivery system. Electrification of transportation may result in cost savings and benefits for all ratepayers.

(2) State policy can achieve the greatest return on investment in reducing greenhouse gas emissions and improving air quality by expediting the transition to alternative fuel vehicles, including electric vehicles. Potential benefits associated with electrification of transportation include the monetization of environmental attributes associated with carbon reduction in the transportation sector.

(3) Legislative clarity is important for utilities to offer programs and services, including incentives, in the electrification of transportation for their customers. It is the intent of the legislature to allow all utilities to support transportation electrification to further the state's policy goals and achieve parity among all electric utilities, so each electric utility, depending on its unique circumstances, can determine its appropriate role in the development of electrification of transportation infrastructure.

Sec. 5. RCW 80.28.--- and 2019 c ... (SHB 1512) s 4 are each amended to read as follows:

(1) An electric utility regulated by the utilities and transportation commission under this chapter may submit to the commission an electrification of transportation plan that deploys electric vehicle supply equipment or provides other electric transportation programs, services, or incentives to support electrification of transportation (~~(- provided that such electric vehicle supply equipment, programs, or services may not increase costs to customers in excess of one quarter of one percent above the benefits of electric transportation to all customers over a period consistent with the utility's planning horizon under its most recent integrated resource plan)).~~ The plans should align to a period consistent with either the utility's planning horizon under its most recent integrated resource plan or the time frame of the actions contemplated in the plan, and may include:

(a) Any programs that the utility is proposing contemporaneously with the plan filing or anticipates later in the plan period;

(b) Anticipated benefits of transportation electrification, based on a forecast of electric transportation in the utilities' service territory; and

(c) Anticipated costs of programs, subject to the restrictions in RCW 80.28.360.

(2) In reviewing an electrification of transportation plan under subsection (1) of this section, the commission may consider the following: (a) The applicability of multiple options for electrification of transportation across all customer classes; (b) the impact of electrification on the utility's load, and whether demand response or other load management opportunities, including direct load control and dynamic pricing, are operationally appropriate; (c) system reliability and distribution system efficiencies; (d) interoperability concerns, including the interoperability of hardware and software systems in electrification of transportation proposals; and (e) the benefits and costs of the planned actions (~~(- and (f) the overall customer experience)).~~

(3) The commission must issue an acknowledgment of an electrification of transportation plan within six months of the submittal of the plan. The commission may establish by rule the requirements for preparation and submission of an electrification of transportation plan. An electric utility may submit a plan under this section before or during rule-making proceedings.

Sec. 6. RCW 80.28.360 and 2019 c ... (SHB 1512) s 5 are each amended to read as follows:

(1) In establishing rates for each electrical company regulated under this title, the commission may allow an incentive rate of return on investment through December 31, 2030, on capital expenditures for electric vehicle supply equipment that is deployed for the benefit of ratepayers, provided that the capital expenditures of the utilities' programs or plans in section 5(1) of this act do not increase ((costs to ratepayers)) the annual retail revenue requirement of the utility, after accounting for the benefits of transportation electrification in each year of the plan, in excess of one-quarter of one percent. The commission must consider and may adopt other policies to improve access to and promote fair competition in the provision of electric vehicle supply equipment.

(2) An incentive rate of return on investment under this section may be allowed only if the company chooses to pursue capital investment in electric vehicle supply equipment on a fully regulated basis similar to other capital investments behind a customer's meter. In the case of an incentive rate of return on investment allowed under this section, an increment of up to two percent must be added to the rate of return on common equity allowed on the company's other investments.

(3) The incentive rate of return on investment authorized in subsection (2) of this section applies only to projects which have been installed after July 1, 2015.

(4) The incentive rate of return on investment increment pursuant to this section may be earned only for a period up to the depreciable life of the electric vehicle supply equipment as defined in the depreciation schedules developed by the company and submitted to the commission for review. When the capital investment has fully depreciated, an electrical company may gift the electric vehicle supply equipment to the owner of the property on which it is located.

(5) By December 31, 2017, the commission must report to the appropriate committees of the legislature with regard to the use of any incentives allowed under this section, the quantifiable impacts of the incentives on actual electric vehicle deployment, and any recommendations to the legislature about utility participation in the electric vehicle market.

NEW SECTION. Sec. 7. This section is the tax preference performance statement for the tax preferences contained in sections 8 through 14, chapter . . . , Laws of 2019 (sections 8 through 14 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It is the legislature's intent to establish and extend tax incentive programs for alternative fuel vehicles and related infrastructure by: (a) Reinstating the sales and use tax exemption on certain clean alternative fuel vehicles in order to reduce the price charged to customers for clean alternative fuel vehicles; (b) extending the

business and occupation and public utility tax credit for clean alternative fuel commercial vehicles and expanding it to include clean alternative fuel infrastructure; (c) extending the sales and use tax exemption for electric vehicle batteries, fuel cells, and infrastructure and expanding it to include the electric battery and fuel cell components of electric buses and zero emissions buses; and (d) extending the leasehold excise tax exemption to tenants of public lands for battery and fuel cell electric vehicle infrastructure.

(3) To measure the effectiveness of the tax preferences in sections 8 through 14, chapter . . . , Laws of 2019 (sections 8 through 14 of this act) in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles titled in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing and the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary.

Sec. 8. RCW 82.04.4496 and 2017 c 116 s 1 are each amended to read as follows:

(1)(a)(i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	((50%)) 75% of incremental cost	\$25,000	\$2,000,000
14,001 to 26,500 pounds	((50%)) 75% of incremental cost	\$50,000	\$2,000,000
Above 26,500 pounds	((50%)) 75% of incremental cost	\$100,000	\$2,000,000

(ii) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to fifty percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of two million dollars.

(b) On September 1st of each year, any unused credits from any ~~((weight class))~~ category identified in ~~((the table in))~~ (a) of this subsection must be made available to applicants applying for credits under any other ~~((weight class listed))~~ category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section and RCW 82.16.0496 is subject to a maximum annual credit amount of six million dollars, and a maximum total

credit amount of thirty-two and one-half million dollars since the credit became available on July 15, 2015.

(c) The credit provided in ~~(a)(i)~~ of this subsection ~~((+))~~ is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in ~~(a)(i)~~ of this subsection ~~((+))~~ multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per ~~((vehicle class))~~ category in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or ~~((thirty))~~ fifty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1)(a)(i) of this section may not exceed the lesser of two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.16 RCW.

(5) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.16.0496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section and RCW 82.16.0496 to exceed thirty-two and one-half million dollars. The department must provide notification on its web site monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;

(iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the

infrastructure;

(vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;

(vii) The gross weight of each vehicle for vehicle credits;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;

(ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit; ~~((and))~~

(iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within ~~((fifteen))~~ thirty days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:

(i) A copy of the final invoice for the vehicle or infrastructure-related items;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of each vehicle;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) Attestations signed by both the seller and purchaser of each vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit ~~((is))~~ and total limit are reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; ~~((or))~~

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or

(iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle conversion is complete, or the construction or installation of the infrastructure is complete.

(13) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(14)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

(15) The department must conduct outreach to interested parties to obtain input on how best to streamline the application process required for the credit made available in this section and RCW 82.16.0496 to further adoption of alternative fuel technologies in commercial vehicle fleets, and must incorporate the findings resulting from this outreach effort into the rules and practices it adopts to implement and administer this section and RCW 82.16.0496 to the extent permitted under law.

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

(a) "Alternative fuel vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support a clean alternative fuel vehicle.

(b) "Auto transportation company" means any corporation or person owning, controlling, operating, or managing any motor propelled vehicle, used in the business of transporting persons for compensation over public highways within the state of Washington, between fixed points or over a regular route. For the purposes of this section, "auto transportation company" also includes the following categories of providers irrespective of whether they provide service between fixed points or over a regular route: "Private, nonprofit transportation provider" as defined in RCW 81.66.010, "charter party carrier" as defined in RCW 81.70.020, and paratransit service providers who primarily provide special needs transportation to individuals with disabilities and the elderly.

~~((b))~~ (c) "Clean alternative fuel" means electricity, dimethyl ether, hydrogen, methane, natural gas, liquefied natural gas, compressed natural gas, or propane.

~~((c))~~ (d) "Commercial vehicle" means any commercial vehicle that is purchased by a private business and that is used

exclusively in the provision of commercial services or the transportation of commodities, merchandise, produce, refuse, freight, animals, or passengers, and that is displaying a Washington state license plate. All commercial vehicles that provide transportation to passengers must be operated by an auto transportation company.

~~((4))~~ (e) "Gross capitalized cost" means the agreed upon value of the commercial vehicle and including any other items a person pays over the lease term that are included in such cost.

~~((5))~~ (f) "Lease reduction factor" means the vehicle gross capitalized cost less the residual value, divided by the gross capitalized cost.

~~((6))~~ (g) "Qualifying used commercial vehicle" means vehicles that:

(i) Have an odometer reading of less than four hundred fifty thousand miles;

(ii) Are less than ten years past their original date of manufacture;

(iii) Were modified after the initial purchase with a United States environmental protection agency certified conversion that would allow the propulsion units to be principally powered by a clean alternative fuel; and

(iv) Are being sold for the first time after modification.

~~((7))~~ (h) "Residual value" means the lease-end value of the vehicle as determined by the lessor, at the end of the lease term included in the lease contract.

~~((46))~~ (17) Credits may be earned under this section from January 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached.

~~((17) Credits earned under this section may not be used after January 1, 2022.~~

~~((18) This section expires January 1, 2022.)~~

NEW SECTION. Sec. 9. A new section is added to chapter 82.08 RCW to read as follows:

(1) Beginning with sales made or lease agreements signed on or after the qualification period start date:

(a) The tax levied by RCW 82.08.020 does not apply as provided in (b) of this subsection to sales or leases of new or used passenger cars, light duty trucks, and medium duty passenger vehicles that:

(i) Are exclusively powered by a clean alternative fuel; or

(ii) Use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power; and

(iii)(A) Have a vehicle selling price plus trade-in property of like kind for purchased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars; or

(B) Have a fair market value at the inception of the lease for leased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars;

(b)(i) The exemption in this section is applicable for up to the

amounts specified in (b)(ii) or (iii) of this subsection of:

(A) The total amount of the vehicle's selling price, for sales made; or

(B) The total lease payments made plus any additional selling price of the leased vehicle if the original lessee purchases the leased vehicle before the qualification period end date, for lease agreements signed.

(ii) Based on the purchase date or the date the lease agreement was signed of the vehicle if the vehicle is a new vehicle at the time of the purchase date or the date the lease agreement was signed:

(A) From the qualification period start date until July 31, 2021, the maximum amount eligible under (b)(i) of this subsection is thirty-two thousand dollars;

(B) From August 1, 2021, until July 31, 2023, the maximum amount eligible under (b)(i) of this subsection is twenty-four thousand dollars;

(C) From August 1, 2023, until July 31, 2025, the maximum amount eligible under (b)(i) of this subsection is sixteen thousand dollars.

(iii) If the vehicle is a used vehicle at the time of the purchase date or the date the lease agreement was signed, the maximum amount eligible under (b)(i) of this subsection is sixteen thousand dollars.

(2) The seller must keep records necessary for the department to verify eligibility under this section. A person claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(3)(a) The department of licensing must maintain and publish a list of all vehicle models that meet the qualifying criteria in subsection (1)(a)(i) or (ii) of this section and section 10(1)(a)(i) or (ii) of this act until the expiration date of this section, and is authorized to issue final rulings on vehicle model qualification for these criteria. A seller is not responsible for repayment of the tax exemption under this section and section 10 of this act for a vehicle if the department of licensing's published list of qualifying vehicle models on the purchase date or the date the lease agreement was signed includes the vehicle model and the department of licensing subsequently removes the vehicle model from the published list, provided the vehicle meets the applicable qualifying criterion under subsection (1)(a)(iii) of this section and section 10(1)(a)(iii) of this act.

(b) The department of revenue retains responsibility for determining whether a vehicle meets the applicable qualifying criterion under subsection (1)(a)(iii) of this section and section 10(1)(a)(iii) of this act.

(4) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the electric vehicle account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(5) By the last day of October 2019, and every six months

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thereafter until this section expires, based on the best available data, the department must report the following information to the transportation committees of the legislature: The cumulative number of vehicles that qualified for the exemption under this section and section 10 of this act by month of purchase or lease start and vehicle make and model; the dollar amount of all state retail sales and use taxes exempted on or after the qualification period start date, under this section and section 10 of this act; and estimates of the future costs of leased vehicles that qualified for the exemption under this section and section 10 of this act.

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

(a) "Clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California Code of Regulations, effective January 1, 2019, and the rules of the Washington state department of ecology.

(b) "Fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(c) "New vehicle" has the same meaning as "new motor vehicle" in RCW 46.04.358.

(d) "Qualification period end date" means August 1, 2025.

(e) "Qualification period start date" means the effective date of this section.

(f) "Used vehicle" has the same meaning as in RCW 46.04.660.

(7)(a) Sales of vehicles delivered to the buyer or leased vehicles for which the lease agreement was signed after the qualification period end date do not qualify for the exemption under this section.

(b) All leased vehicles that qualified for the exemption under this section before the qualification period end date must continue to receive the exemption as described under subsection (1)(b) of this section on any lease payments due through the remainder of the lease before the expiration date of this section.

(8) This section expires August 1, 2028.

(9) This section is supported by the revenues generated in section 23 of this act, and therefore takes effect only if section 23 of this act is enacted by June 30, 2019.

NEW SECTION. Sec. 10. A new section is added to chapter 82.12 RCW to read as follows:

(1) Until August 1, 2028, beginning with sales made or lease agreements signed on or after the qualification period start date:

(a) The provisions of this chapter do not apply as provided in (b) of this subsection in respect to the use of new or used passenger cars, light duty trucks, and medium duty passenger vehicles that:

(i) Are exclusively powered by a clean alternative fuel; or

(ii) Use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power; and

(iii)(A) Have a fair market value at the time use tax is imposed for purchased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars; or

(B) Have a fair market value at the inception of the lease for leased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars;

(b)(i) The exemption in this section is only applicable for up to the amounts specified in (b)(ii) or (iii) of this subsection of:

(A) The total amount of the vehicle's purchase price, for sales made; or

(B) The total lease payments made plus any additional purchase price of the leased vehicle if the original lessee purchases the leased vehicle before the qualification period end date, for lease agreements signed.

(ii) Based on the purchase date or the date the lease agreement was signed of the vehicle if the vehicle is a new vehicle at the time of the purchase date or the date the lease agreement was signed:

(A) From the qualification period start date until July 31, 2021, the maximum amount eligible under (b)(i) of this subsection is thirty-two thousand dollars;

(B) From August 1, 2021, until July 31, 2023, the maximum amount eligible under (b)(i) of this subsection is twenty-four thousand dollars;

(C) From August 1, 2023, until July 31, 2025, the maximum amount eligible under (b)(i) of this subsection is sixteen thousand dollars.

(iii) If the vehicle is a used vehicle at the time of the purchase date or the date the lease agreement was signed, the maximum amount eligible under (b)(i) of this subsection is sixteen thousand dollars.

(2)(a) The seller must keep records necessary for the department to verify eligibility under this section, except as provided in (b) of this subsection. A person claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; fair market value of the vehicle; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(b) (a) of this subsection applies only if the seller or person claiming the exemption is a vehicle dealer, as defined under RCW 46.70.011. When the seller is not a vehicle dealer, the department of licensing must establish a process for granting the tax exemption under this section for use tax otherwise collected at the time the ownership of a vehicle is transferred when the vehicle qualifies for the use tax exemption under subsection (1)(a) of this section, and must provide any information required under (a) of this subsection that it obtains as part of the vehicle titling and registration process for these vehicles to the department on at least a quarterly basis.

(3) Until August 1, 2028, on the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the electric vehicle account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data.

(4)(a) Vehicles purchased or leased vehicles for which the lease agreement was signed after the qualification period end date do not qualify for the exemption under this section.

(b) All leased vehicles that qualified for the exemption under this section before the qualification period end date must continue

to receive the exemption as described under subsection (1)(b) of this section on any lease payments due through the remainder of the lease before August 1, 2028.

(5) The definitions in section 9 of this act apply to this section.

(6) This section is supported by the revenues generated in section 23 of this act, and therefore takes effect only if section 23 of this act is enacted by June 30, 2019.

Sec. 11. RCW 82.08.816 and 2009 c 459 s 4 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of batteries or fuel cells for electric vehicles, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

(b) The sale of or charge made for labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells;

(c) The sale of or charge made for labor and services rendered in respect to installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure, including hydrogen fueling stations; ~~((and))~~

(d) The sale of tangible personal property that will become a component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and

(e) The sale of zero emissions buses.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption ~~((certification))~~ certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support ~~((and))~~ a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, ~~((and))~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or

exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

~~((4))~~ (e) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for the energy input into the production process.

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(g) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

~~(5)~~ This section expires ~~((January))~~ August 1, ((2020)) 2029.

Sec. 12. RCW 82.12.816 and 2009 c 459 s 5 are each amended to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) Electric vehicle batteries or fuel cells, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

(b) Labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells; ~~((and))~~

(c) Tangible personal property that will become a component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and

(d) Zero emissions buses.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support ~~((and))~~ a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, ~~((and))~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(e) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for the energy input into the production process.

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

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(g) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) This section expires ((January)) August 1, ((2020)) 2029.

Sec. 13. RCW 82.16.0496 and 2017 c 116 s 2 are each amended to read as follows:

(1)(a)(i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	<u>((50%)) 75%</u> of incremental cost	\$25,000	\$2,000,000
14,001 to 26,500 pounds	<u>((50%)) 75%</u> of incremental cost	\$50,000	\$2,000,000
Above 26,500 pounds	<u>((50%)) 75%</u> of incremental cost	\$100,000	\$2,000,000

(ii) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to fifty percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of two million dollars.

(b) On September 1st of each year, any unused credits from any ((weight class)) category identified in ((the table in)) (a) of this subsection must be made available to applicants applying for credits under any other ((weight class listed)) category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section and RCW 82.04.4496 is subject to a maximum annual credit amount of six million dollars, and a maximum total credit amount of thirty-two and one-half million dollars beginning July 15, 2015.

(c) The credit provided in (a)(i) of this subsection ~~((4))~~ is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in (a)(i) of this subsection ~~((4))~~ multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per ~~((vehicle class))~~ category in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or ~~((thirty))~~ fifty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1)(a)(i) of this section may not exceed the lesser of two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.04 RCW.

(5) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.04.4496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section and RCW 82.04.4496 to exceed thirty-two and one-half million dollars. The department must provide notification on its web site monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;

(iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the infrastructure;

(vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;

(vii) The gross weight of each vehicle for vehicle credits;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of

the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;

(ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit; ~~((and))~~

(iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within ~~((fifteen))~~ thirty days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:

(i) A copy of the final invoice for the vehicle or infrastructure-related items;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of each vehicle;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) Attestations signed by both the seller and purchaser of the vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit ~~((is))~~ and total limit are reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; ~~((or))~~

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or

(iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle conversion is complete, or the construction or installation of the infrastructure is complete.

(13) The definitions in RCW 82.04.4496 apply to this section.

(14) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(15)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

(16) Credits may be earned under this section from January 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached.

~~((17) Credits earned under this section may not be used after January 1, 2022.~~

~~((18) This section expires January 1, 2022.))~~

Sec. 14. RCW 82.29A.125 and 2009 c 459 s 3 are each amended to read as follows:

(1) Leasehold excise tax may not be imposed on leases to tenants of public lands for purposes of installing, maintaining, and operating electric vehicle infrastructure.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, ~~((and))~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or

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exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(e) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for energy input into the production process.

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(3) This section expires (~~January~~) August 1, ((2020)) 2029.

Sec. 15. RCW 82.44.200 and 2015 3rd sp.s. c 44 s 404 are each amended to read as follows:

The electric vehicle (~~charging infrastructure~~) account is created in the transportation infrastructure account. Proceeds from the principal and interest payments made on loans from the account must be deposited into the account. Expenditures from the account may be used only for the purposes specified in RCW 47.04.350, sections 9 and 10 of this act, and the support of other transportation electrification and alternative fuel related purposes. Moneys in the account may be spent only after appropriation.

NEW SECTION. Sec. 16. A new section is added to chapter 47.04 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department's public-private partnership office must develop a pilot program to support clean alternative fuel car sharing programs to provide clean alternative fuel vehicle use opportunities to underserved communities and low to moderate income members of the workforce not readily served by transit or located in transportation corridors with emissions that exceed federal or state emissions standards. Nonprofit organizations or local governments, including housing authorities, with a demonstrated history of managing or implementing low-income transportation clean alternative fuel and shared mobility pilot programs are eligible to participate in this program.

(2) The department must determine specific eligibility criteria, based on the requirements of this section, the report submitted to the legislature by the Puget Sound clean air agency entitled facilitating low-income utilization of electric vehicles, and other factors relevant to increasing clean alternative fuel vehicle use in underserved and low to moderate income communities. The department may adopt rules specifying the eligibility criteria it selects.

(3) The department may conduct preliminary workshops with potential bidders and other potential partners to determine the best method of designing the pilot program.

(4) The department must include the following elements in its proposal evaluation and scoring methodology: History of successful management of equity focused clean alternative fuel vehicle projects; substantial level of involvement from community-based, equity focused organizations in the project; plan for long-term financial sustainability of the work beyond the duration of the grant period; matching resources leveraged for the project; and geographical diversity of the projects selected.

(5) After selecting successful proposals under this section, the department may provide grant funding to them. The total grant amount available per project may range from fifty thousand to two hundred thousand dollars. The grant opportunity must include possible funding of vehicles, charging or refueling station infrastructure, staff time, and any other expenses required to implement the project. No more than ten percent of grant funds may be used for administrative expenses.

(6)(a) Any property acquired with state grant funding under this section by nongovernmental participants must be used solely for program purposes and, if sold, the proceeds of the sale must be used solely for program purposes.

(b) At the termination of a program for providing alternative fuel car sharing services, the state must be reimbursed for any property acquired with state grant funding under this section that nongovernmental participants in the program retain at the time of program termination. The amount of reimbursement may under no circumstances be less than the fair market value of the property at the time of the termination of the program.

NEW SECTION. Sec. 17. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce must conduct a study to identify opportunities to reduce barriers to battery and fuel cell electric vehicle adoption by lower income residents of the state through the use of vehicle and infrastructure financing assistance. The study must include an assessment of opportunities to work with nonprofit lenders to facilitate vehicle purchases through the use of loan-loss reserves and rate buy downs by qualified borrowers purchasing battery and fuel cell electric vehicles that are eligible for the tax exemptions under sections 9 and 10 of this act, and may address additional financing assistance opportunities identified. The study must focus on potential borrowers who are at or below eighty percent of the state median household income. The study may also address any additional opportunities identified to increase electric vehicle adoption by lower income residents of the state.

(2) The department of commerce must provide a report detailing the findings of this study to the transportation committees of the legislature by June 30, 2020, and may contract with a consultant on all or a portion of the study.

NEW SECTION. Sec. 18. A new section is added to chapter 47.66 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, the department's public transportation division shall establish a green transportation capital grant program. The purpose of the grant program is to aid any transit authority in funding cost-effective capital projects to reduce the carbon intensity of the Washington transportation system, examples of which include: Electrification of vehicle fleets, including battery and fuel cell electric vehicles; modification or replacement of capital facilities in order to facilitate fleet electrification and/or hydrogen refueling; necessary upgrades to electrical transmission and distribution systems; and construction of charging and fueling stations. The department's public transportation division shall identify projects and shall submit a prioritized list of all projects requesting funding to the legislature by December 1st of each even-numbered year.

(b) The department's public transportation division shall select projects based on a competitive process that considers the following criteria:

(i) The cost-effectiveness of the reductions in carbon emissions provided by the project; and

(ii) The benefit provided to transitioning the entire state to a transportation system with lower carbon intensity.

(2) The department's public transportation division must establish an advisory committee to assist in identifying projects under subsection (1) of this section. The advisory committee must include representatives from the department of ecology, the department of commerce, the utilities and transportation commission, and at least one transit authority.

(3) In order to receive green transportation capital grant program funding for a project, a transit authority must provide matching funding for that project that is at least equal to twenty

percent of the total cost of the project.

(4) The department's public transportation division must report annually to the transportation committees of the legislature on the status of any grant projects funded by the program created under this section.

(5) For purposes of this section, "transit authority" means a city transit system under RCW 35.58.2721 or chapter 35.95A RCW, a county public transportation authority under chapter 36.57 RCW, a metropolitan municipal corporation transit system under chapter 36.56 RCW, a public transportation benefit area under chapter 36.57A RCW, an unincorporated transportation benefit area under RCW 36.57.100, a regional transit authority under chapter 81.112 RCW, or any special purpose district formed to operate a public transportation system.

Sec. 19. RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply

revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle (~~charging infrastructure~~) account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, the supplemental pension account, the

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Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 20. This section is the tax preference performance statement for the tax preferences contained in sections 21 and 22, chapter . . . , Laws of 2019 (sections 21 and 22 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of electric vessels in Washington. It is the legislature's intent to establish a sales and use tax exemption on certain electric vessels in order to reduce the price charged to customers for electric vessels.

(3) To measure the effectiveness of the tax preferences in sections 21 and 22, chapter . . . , Laws of 2019 (sections 21 and 22 of this act) in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review

committee must evaluate the number of electric vessels titled in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing and the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary.

NEW SECTION. Sec. 21. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of new battery-powered electric marine propulsion systems with continuous power greater than fifteen kilowatts.

(b) The sale of new vessels equipped with propulsion systems that qualify under (a) of this subsection.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) For the purposes of this section:

(a) "Battery-powered electric marine propulsion system" means a fully electric outboard or inboard motor used by vessels, the sole source of propulsive power of which is the energy stored in the battery packs. The term includes required accessories, such as throttles, displays, and battery packs; and

(b) "Vessel" includes every watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(5) This section expires August 1, 2029.

NEW SECTION. Sec. 22. A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) New battery-powered electric marine propulsion systems with continuous power greater than fifteen kilowatts; and

(b) New vessels equipped with propulsion systems that qualify under (a) of this subsection.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) For the purposes of this section, "battery-powered electric marine propulsion system" and "vessel" have the same meanings as provided in section 22 of this act.

(5) This section expires August 1, 2029.

NEW SECTION. Sec. 23. A new section is added to chapter 46.17 RCW to read as follows:

To realize the environmental benefits of electrification of the transportation system it is necessary to support the adoption of electric vehicles and other electric technology in the state by incentivizing the purchase of these vehicles, building out the charging infrastructure, developing greener transit options, and supporting clean alternative fuel infrastructure. Therefore, it is the intent of the legislature to support these activities through the imposition of new transportation electrification fees in this section.

(1) A vehicle that both (a) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (b) is capable of traveling at least thirty miles using only battery power, is subject to an annual one hundred fifty dollar transportation electrification fee to be collected by the department, county auditor, or other agent or subagent appointed by the director. For administrative efficiencies, the transportation electrification fee must be collected at the same time as vehicle registration renewals and may only be collected for vehicles that are renewing an annual vehicle registration.

(2) In lieu of the fee in subsection (1) of this section for a hybrid electric or alternative fuel vehicle that is not required to pay the fees established in RCW 46.17.323 (1) and (4), the department, county auditor, or other agent or subagent appointed by the director must require that the applicant for the annual vehicle registration renewal of such hybrid electric or alternative fuel vehicle pay a fifty dollar hybrid vehicle transportation electrification fee.

(3) The fees required under this section must be deposited in the electric vehicle account created in RCW 82.44.200, until July 1, 2029, when the fee must be deposited in the motor vehicle account.

NEW SECTION. Sec. 24. Sections 1 through 7, 9 through 12, and 14 through 23 of this act take effect August 1, 2019.

NEW SECTION. Sec. 25. Sections 8 and 13 of this act take effect January 1, 2020."

On page 1, line 1 of the title, after "adoption;" strike the remainder of the title and insert "amending RCW 28B.30.903, 47.04.350, 80.28.---, 80.28.360, 82.04.4496, 82.08.816, 82.12.816, 82.16.0496, 82.29A.125, and 82.44.200; amending 2019 c ... (SHB 1512) s 1 (uncodified); reenacting and amending RCW 43.84.092; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 47.04 RCW; adding a new section to chapter 47.66 RCW; adding a new section to chapter 46.17 RCW; creating new sections; providing effective dates; providing contingent effective dates; and providing expiration dates."

The President Pro Tempore declared the question before the Senate to be the motion to not adopt the committee striking amendment by the Committee on Transportation to Engrossed Second Substitute House Bill No. 2042.

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

MOTION

Senator Saldaña moved that the following striking amendment

no. 832 by Senators Saldaña, Hobbs and King be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that increasing the rate of adoption of electric vehicles and vessels and other clean alternative fuel vehicles will help to reduce harmful air pollution from exhaust emissions, including greenhouse gas emissions, in the state. The legislature also finds that an increased reliance on greener transit options will help to further reduce harmful air pollution from exhaust emissions. The legislature further finds that support for clean alternative fuel infrastructure can help to increase adoption of green transportation in the state, as noted in a 2015 joint transportation committee report. It is therefore the legislature's intent to drive green vehicle and vessel adoption and increased green transit use by: (1) Establishing and extending tax incentive programs for alternative fuel vehicles and related infrastructure, including for commercial vehicles; (2) providing funding for a capital grant program to assist transit authorities in reducing the carbon output of their fleets; (3) increasing public and private electric utilities' ability to invest in electric vehicle charging infrastructure; (4) establishing a technical assistance program for public agencies within the Washington State University's energy program; (5) funding a pilot program to test methods for facilitating access to alternative fuel vehicles and alternative fuel vehicle infrastructure by low-income residents of the state; (6) funding a study to examine opportunities to provide financing assistance to lower-income residents of the state who would like to purchase an electric vehicle; and (7) establishing a tax incentive program for certain electric vessels.

Sec. 2. RCW 28B.30.903 and 2010 c 37 s 1 are each amended to read as follows:

(1) The Washington State University extension energy program shall provide information, technical assistance, and consultation on physical plant operation, maintenance, and construction issues to state and local governments, tribal governments, and nonprofit organizations through its plant operations support program. The Washington State University extension energy program may not enter into facilities design or construction contracts on behalf of state or local government agencies, tribal governments, or nonprofit organizations. The plant operations support program created in this section must be funded by voluntary subscription charges, service fees, and other funding acquired by or provided to Washington State University for such purposes.

(2) Subject to the availability of amounts appropriated for this specific purpose through the 2023-2025 biennium, the Washington State University extension energy program must establish and administer a technical assistance and education program focused on the use of alternative fuel vehicles. Education and assistance may be provided to public agencies, including local governments and other state political subdivisions.

Sec. 3. RCW 47.04.350 and 2015 3rd sp.s. c 44 s 403 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose through the 2023-2025 biennium, the department's public-private partnership office must develop and maintain a ((pilot)) program to support the deployment of ((electric)) clean alternative fuel vehicle charging and refueling infrastructure that is supported by private financing.

(2) The department must define corridors in which bidders may propose to install electric vehicle charging infrastructure or hydrogen fueling stations, and may update these corridors over

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time as needed. Alternatively, a bidder may propose a corridor in which the bidder proposes to install electric vehicle infrastructure or hydrogen fueling stations if the department has adopted rules allowing such a proposal and establishing guidelines for how such a proposal will be considered.

(3)(a) For bid proposals under this section, the department must require the following:

(i) Bidders must have private sector partners contributing to the project who stand to gain indirect value from development of the project, such as motor vehicle manufacturers, retail stores, or tourism stakeholders;

(ii) Bidders must demonstrate that the proposed project will be valuable to ~~((electric))~~ clean alternative fuel vehicle drivers and will address an existing gap in the state's ~~((electric vehicle charging station))~~ low carbon transportation infrastructure;

(iii) Projects must be expected to be profitable and sustainable for the owner-operator and the private partner; and

(iv) Bidders must specify how the project captures the indirect value of charging or refueling station deployment to the private partner.

(b) The department may adopt rules that require any other criteria for a successful project.

(4) In evaluating proposals under this section, the department may use the electric vehicle financial analysis tool that was developed in the joint transportation committee's study into financing electric vehicle charging station infrastructure.

(5)(a) After selecting a successful proposer under this section, the department may provide a loan or grant to the proposer.

(b) Grants and loans issued under this subsection must be funded from the electric vehicle ~~((charging infrastructure))~~ account created in RCW 82.44.200.

(c) Any project selected for support under this section is eligible for only one grant or loan as a part of the ~~((pilot))~~ program.

(6) The department may conduct preliminary workshops with potential bidders and other potential private sector partners to determine the best method of designing and maintaining the ~~((pilot))~~ program, discuss how to develop and maintain the partnerships among the private sector partners that may receive indirect value, and any other issues relating to the implementation and administration of this section. The department should consider regional workshops to engage potential business partners from across the state.

(7) The department must adopt rules to implement and administer this section.

Sec. 4. 2019 c ... (SHB 1512) s 1 (uncodified) is amended to read as follows:

The legislature finds that:

(1) Programs for the electrification of transportation have the potential to allow electric utilities to optimize the use of electric grid infrastructure, improve the management of electric loads, and better manage the integration of variable renewable energy resources. Depending upon each utility's unique circumstances, electrification of transportation programs may provide cost-effective energy efficiency, through more efficient use of energy resources, and more efficient use of the electric delivery system. Electrification of transportation may result in cost savings and benefits for all ratepayers.

(2) State policy can achieve the greatest return on investment in reducing greenhouse gas emissions and improving air quality by expediting the transition to alternative fuel vehicles, including electric vehicles. Potential benefits associated with electrification of transportation include the monetization of environmental attributes associated with carbon reduction in the transportation sector.

(3) Legislative clarity is important for utilities to offer programs and services, including incentives, in the electrification of transportation for their customers. It is the intent of the legislature to allow all utilities to support transportation electrification to further the state's policy goals and achieve parity among all electric utilities, so each electric utility, depending on its unique circumstances, can determine its appropriate role in the development of electrification of transportation infrastructure.

Sec. 5. RCW 80.28.--- and 2019 c ... (SHB 1512) s 4 are each amended to read as follows:

(1) An electric utility regulated by the utilities and transportation commission under this chapter may submit to the commission an electrification of transportation plan that deploys electric vehicle supply equipment or provides other electric transportation programs, services, or incentives to support electrification of transportation ~~((, provided that such electric vehicle supply equipment, programs, or services may not increase costs to customers in excess of one quarter of one percent above the benefits of electric transportation to all customers over a period consistent with the utility's planning horizon under its most recent integrated resource plan))~~. The plans should align to a period consistent with either the utility's planning horizon under its most recent integrated resource plan or the time frame of the actions contemplated in the plan, and may include:

(a) Any programs that the utility is proposing contemporaneously with the plan filing or anticipates later in the plan period;

(b) Anticipated benefits of transportation electrification, based on a forecast of electric transportation in the utilities' service territory; and

(c) Anticipated costs of programs, subject to the restrictions in RCW 80.28.360.

(2) In reviewing an electrification of transportation plan under subsection (1) of this section, the commission may consider the following: (a) The applicability of multiple options for electrification of transportation across all customer classes; (b) the impact of electrification on the utility's load, and whether demand response or other load management opportunities, including direct load control and dynamic pricing, are operationally appropriate; (c) system reliability and distribution system efficiencies; (d) interoperability concerns, including the interoperability of hardware and software systems in electrification of transportation proposals; and (e) the benefits and costs of the planned actions ~~((, and (f) the overall customer experience))~~.

(3) The commission must issue an acknowledgment of an electrification of transportation plan within six months of the submittal of the plan. The commission may establish by rule the requirements for preparation and submission of an electrification of transportation plan. An electric utility may submit a plan under this section before or during rule-making proceedings.

Sec. 6. RCW 80.28.360 and 2019 c ... (SHB 1512) s 5 are each amended to read as follows:

(1) In establishing rates for each electrical company regulated under this title, the commission may allow an incentive rate of return on investment through December 31, 2030, on capital expenditures for electric vehicle supply equipment that is deployed for the benefit of ratepayers, provided that the capital expenditures of the utilities' programs or plans in section 5(1) of this act do not increase ~~((costs to ratepayers))~~ the annual retail revenue requirement of the utility, after accounting for the benefits of transportation electrification in each year of the plan, in excess of one-quarter of one percent. The commission must consider and may adopt other policies to improve access to and

promote fair competition in the provision of electric vehicle supply equipment.

(2) An incentive rate of return on investment under this section may be allowed only if the company chooses to pursue capital investment in electric vehicle supply equipment on a fully regulated basis similar to other capital investments behind a customer’s meter. In the case of an incentive rate of return on investment allowed under this section, an increment of up to two percent must be added to the rate of return on common equity allowed on the company’s other investments.

(3) The incentive rate of return on investment authorized in subsection (2) of this section applies only to projects which have been installed after July 1, 2015.

(4) The incentive rate of return on investment increment pursuant to this section may be earned only for a period up to the depreciable life of the electric vehicle supply equipment as defined in the depreciation schedules developed by the company and submitted to the commission for review. When the capital investment has fully depreciated, an electrical company may gift the electric vehicle supply equipment to the owner of the property on which it is located.

(5) By December 31, 2017, the commission must report to the appropriate committees of the legislature with regard to the use of any incentives allowed under this section, the quantifiable impacts of the incentives on actual electric vehicle deployment, and any recommendations to the legislature about utility participation in the electric vehicle market.

NEW SECTION. Sec. 7. This section is the tax preference performance statement for the tax preferences contained in sections 8 through 14, chapter . . . , Laws of 2019 (sections 8 through 14 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature’s specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It is the legislature’s intent to establish and extend tax incentive programs for alternative fuel vehicles and related infrastructure by: (a) Reinstating the sales and use tax exemption on certain clean alternative fuel vehicles in order to reduce the price charged to customers for clean alternative fuel vehicles; (b) extending the business and occupation and public utility tax credit for clean alternative fuel commercial vehicles and expanding it to include clean alternative fuel infrastructure; (c) extending the sales and use tax exemption for electric vehicle batteries, fuel cells, and infrastructure and expanding it to include the electric battery and fuel cell components of electric buses and zero emissions buses; and (d) extending the leasehold excise tax exemption to tenants of public lands for battery and fuel cell electric vehicle infrastructure.

(3) To measure the effectiveness of the tax preferences in sections 8 through 14, chapter . . . , Laws of 2019 (sections 8 through 14 of this act) in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles titled in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing and the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative

audit and review committee may use any other data it deems necessary.

Sec. 8. RCW 82.04.4496 and 2017 c 116 s 1 are each amended to read as follows:

(1)(a)(i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	((50%)) 75% of incremental cost	\$25,000	\$2,000,000
14,001 to 26,500 pounds	((50%)) 75% of incremental cost	\$50,000	\$2,000,000
Above 26,500 pounds	((50%)) 75% of incremental cost	\$100,000	\$2,000,000

(ii) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to fifty percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of two million dollars.

(b) On September 1st of each year, any unused credits from any ~~((weight class))~~ category identified in ~~((the table in))~~ (a) of this subsection must be made available to applicants applying for credits under any other ~~((weight class listed))~~ category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section and RCW 82.16.0496 is subject to a maximum annual credit amount of six million dollars, and a maximum total credit amount of thirty-two and one-half million dollars since the credit became available on July 15, 2015.

(c) The credit provided in (a)(i) of this subsection ~~((+))~~ is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in (a)(i) of this subsection ~~((+))~~ multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per ~~((vehicle class))~~ category in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or ~~((thirty))~~ fifty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1)(a)(i) of this section may not exceed the lesser of two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.16 RCW.

(5) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.16.0496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section and RCW 82.16.0496 to exceed thirty-two and one-half million dollars. The department must provide notification on its web site monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

- (a) Complete an application for the credit which must include:
 - (i) The name, business address, and tax identification number of the applicant;
 - (ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;
 - (iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;
 - (iv) The incremental cost of the alternative fuel system for vehicle credits;
 - (v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the infrastructure;
 - (vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;
 - (vii) The gross weight of each vehicle for vehicle credits;
 - (viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and
 - (ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

- (i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;
- (ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit; ~~((and))~~
- (iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within ~~((fifteen))~~ thirty days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:

- (i) A copy of the final invoice for the vehicle or infrastructure-related items;
- (ii) A copy of the factory build sheet or equivalent documentation;
- (iii) The vehicle identification number of each vehicle;
- (iv) The incremental cost of the alternative fuel system for vehicle credits;
- (v) Attestations signed by both the seller and purchaser of each vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and
- (vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

(10) To administer the credits, the department must, at a minimum:

- (a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit ~~((is))~~ and total limit are reached;
- (b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;
- (c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and
- (d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(12)(a) Taxpayers are only eligible for a credit under this section based on:

- (i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; ~~((or))~~
- (ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or
- (iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle conversion is complete, or the construction or installation of the infrastructure is complete.

(13) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent

calendar year, but may not be carried over a second year.

(14)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

(15) The department must conduct outreach to interested parties to obtain input on how best to streamline the application process required for the credit made available in this section and RCW 82.16.0496 to further adoption of alternative fuel technologies in commercial vehicle fleets, and must incorporate the findings resulting from this outreach effort into the rules and practices it adopts to implement and administer this section and RCW 82.16.0496 to the extent permitted under law.

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

(a) "Alternative fuel vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support a clean alternative fuel vehicle.

(b) "Auto transportation company" means any corporation or person owning, controlling, operating, or managing any motor propelled vehicle, used in the business of transporting persons for compensation over public highways within the state of Washington, between fixed points or over a regular route. For the purposes of this section, "auto transportation company" also includes the following categories of providers irrespective of whether they provide service between fixed points or over a regular route: "Private, nonprofit transportation provider" as defined in RCW 81.66.010, "charter party carrier" as defined in RCW 81.70.020, and paratransit service providers who primarily provide special needs transportation to individuals with disabilities and the elderly.

~~((b))~~ (c) "Clean alternative fuel" means electricity, dimethyl ether, hydrogen, methane, natural gas, liquefied natural gas, compressed natural gas, or propane.

~~((e))~~ (d) "Commercial vehicle" means any commercial vehicle that is purchased by a private business and that is used exclusively in the provision of commercial services or the transportation of commodities, merchandise, produce, refuse, freight, animals, or passengers, and that is displaying a Washington state license plate. All commercial vehicles that provide transportation to passengers must be operated by an auto transportation company.

~~((b))~~ (e) "Gross capitalized cost" means the agreed upon value of the commercial vehicle and including any other items a person pays over the lease term that are included in such cost.

~~((e))~~ (f) "Lease reduction factor" means the vehicle gross capitalized cost less the residual value, divided by the gross capitalized cost.

~~((f))~~ (g) "Qualifying used commercial vehicle" means vehicles that:

(i) Have an odometer reading of less than four hundred fifty thousand miles;

(ii) Are less than ten years past their original date of manufacture;

(iii) Were modified after the initial purchase with a United States environmental protection agency certified conversion that would allow the propulsion units to be principally powered by a clean alternative fuel; and

(iv) Are being sold for the first time after modification.

~~((e))~~ (h) "Residual value" means the lease-end value of the vehicle as determined by the lessor, at the end of the lease term included in the lease contract.

~~((16))~~ (17) Credits may be earned under this section from January 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached.

~~((17) Credits earned under this section may not be used after January 1, 2022.~~

~~((18) This section expires January 1, 2022.)~~

NEW SECTION. Sec. 9. A new section is added to chapter 82.08 RCW to read as follows:

(1) Beginning August 1, 2019, with sales made or lease agreements signed on or after the qualification period start date:

(a) The tax levied by RCW 82.08.020 does not apply as provided in (b) of this subsection to sales or leases of new or used passenger cars, light duty trucks, and medium duty passenger vehicles that:

(i) Are exclusively powered by a clean alternative fuel; or

(ii) Use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power; and

(iii)(A) Have a vehicle selling price plus trade-in property of like kind for purchased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars; or

(B) Have a fair market value at the inception of the lease for leased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars;

(b)(i) The exemption in this section is applicable for up to the amounts specified in (b)(ii) or (iii) of this subsection of:

(A) The total amount of the vehicle's selling price, for sales made; or

(B) The total lease payments made plus any additional selling price of the leased vehicle if the original lessee purchases the leased vehicle before the qualification period end date, for lease agreements signed.

(ii) Based on the purchase date or the date the lease agreement was signed of the vehicle if the vehicle is a new vehicle at the time of the purchase date or the date the lease agreement was signed:

(A) From the qualification period start date until July 31, 2021, the maximum amount eligible under (b)(i) of this subsection is twenty-five thousand dollars;

(B) From August 1, 2021, until July 31, 2023, the maximum amount eligible under (b)(i) of this subsection is twenty thousand dollars;

(C) From August 1, 2023, until July 31, 2025, the maximum amount eligible under (b)(i) of this subsection is fifteen thousand dollars.

(iii) If the vehicle is a used vehicle at the time of the purchase date or the date the lease agreement was signed, the maximum

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amount eligible under (b)(i) of this subsection is sixteen thousand dollars.

(2) The seller must keep records necessary for the department to verify eligibility under this section. A person claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(3)(a) The department of licensing must maintain and publish a list of all vehicle models qualifying for the tax exemptions under this section, and is authorized to issue final rulings on vehicle model qualification for these criteria. A seller is not responsible for repayment of the tax exemption under this section and section 10 of this act for a vehicle if the department of licensing's published list of qualifying vehicle models on the purchase date or the date the lease agreement was signed includes the vehicle model and the department of licensing subsequently removes the vehicle model from the published list, and, if applicable, the vehicle meets the qualifying criterion under subsection (1)(a)(iii)(B) of this section and section 10(1)(a)(iii)(B) of this act.

(b) The department of revenue retains responsibility for determining whether a vehicle meets the applicable qualifying criterion under subsection (1)(a)(iii)(B) of this section and section 10(1)(a)(iii)(B) of this act.

(4) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the electric vehicle account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(5) By the last day of October 2019, and every six months thereafter until this section expires, based on the best available data, the department must report the following information to the transportation committees of the legislature: The cumulative number of vehicles that qualified for the exemption under this section and section 10 of this act by month of purchase or lease start and vehicle make and model; the dollar amount of all state retail sales and use taxes exempted on or after the qualification period start date, under this section and section 10 of this act; and estimates of the future costs of leased vehicles that qualified for the exemption under this section and section 10 of this act.

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

(a) "Clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California Code of Regulations, effective January 1, 2019, and the rules of the Washington state department of ecology.

(b) "Fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(c) "New vehicle" has the same meaning as "new motor vehicle" in RCW 46.04.358.

(d) "Qualification period end date" means August 1, 2025.

(e) "Qualification period start date" means the effective date of this section.

(f) "Used vehicle" has the same meaning as in RCW 46.04.660.

(7)(a) Sales of vehicles delivered to the buyer or leased vehicles for which the lease agreement was signed after the qualification period end date do not qualify for the exemption under this section.

(b) All leased vehicles that qualified for the exemption under this section before the qualification period end date must continue to receive the exemption as described under subsection (1)(b) of this section on any lease payments due through the remainder of the lease before the expiration date of this section.

(8) This section expires August 1, 2028.

(9) This section is supported by the revenues generated in section 23 of this act, and therefore takes effect only if section 23 of this act is enacted by June 30, 2019.

NEW SECTION. Sec. 10. A new section is added to chapter 82.12 RCW to read as follows:

(1) Beginning August 1, 2019, beginning with sales made or lease agreements signed on or after the qualification period start date:

(a) The provisions of this chapter do not apply as provided in (b) of this subsection in respect to the use of new or used passenger cars, light duty trucks, and medium duty passenger vehicles that:

(i) Are exclusively powered by a clean alternative fuel; or

(ii) Use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power; and

(iii)(A) Have a fair market value at the time use tax is imposed for purchased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars; or

(B) Have a fair market value at the inception of the lease for leased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars;

(b)(i) The exemption in this section is only applicable for up to the amounts specified in (b)(ii) or (iii) of this subsection of:

(A) The total amount of the vehicle's purchase price, for sales made; or

(B) The total lease payments made plus any additional purchase price of the leased vehicle if the original lessee purchases the leased vehicle before the qualification period end date, for lease agreements signed.

(ii) Based on the purchase date or the date the lease agreement was signed of the vehicle if the vehicle is a new vehicle at the time of the purchase date or the date the lease agreement was signed:

(A) From the qualification period start date until July 31, 2021, the maximum amount eligible under (b)(i) of this subsection is twenty-five thousand dollars;

(B) From August 1, 2021, until July 31, 2023, the maximum amount eligible under (b)(i) of this subsection is twenty thousand dollars;

(C) From August 1, 2023, until July 31, 2025, the maximum amount eligible under (b)(i) of this subsection is fifteen thousand dollars.

(iii) If the vehicle is a used vehicle at the time of the purchase date or the date the lease agreement was signed, the maximum amount eligible under (b)(i) of this subsection is sixteen thousand dollars.

(2)(a) The seller must keep records necessary for the department to verify eligibility under this section, except as provided in (b) of this subsection. A person claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; fair market value of the vehicle; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(b) (a) of this subsection applies only if the seller or person claiming the exemption is a vehicle dealer, as defined under RCW 46.70.011. When the seller is not a vehicle dealer, the department of licensing must establish a process for granting the tax exemption under this section for use tax otherwise collected at the time the ownership of a vehicle is transferred when the vehicle qualifies for the use tax exemption under subsection (1)(a) of this section, and must provide any information required under (a) of this subsection that it obtains as part of the vehicle titling and registration process for these vehicles to the department on at least a quarterly basis.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the electric vehicle account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data.

(4)(a) Vehicles purchased or leased vehicles for which the lease agreement was signed after the qualification period end date do not qualify for the exemption under this section.

(b) All leased vehicles that qualified for the exemption under this section before the qualification period end date must continue to receive the exemption as described under subsection (1)(b) of this section on any lease payments due through the remainder of the lease before August 1, 2028.

(5) The definitions in section 9 of this act apply to this section.

(6) This section is supported by the revenues generated in section 23 of this act, and therefore takes effect only if section 23 of this act is enacted by June 30, 2019.

(7) This section expires August 1, 2028.

Sec. 11. RCW 82.08.816 and 2009 c 459 s 4 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of batteries or fuel cells for electric vehicles, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

(b) The sale of or charge made for labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells;

(c) The sale of or charge made for labor and services rendered in respect to installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure, including hydrogen fueling stations; ~~((and))~~

(d) The sale of tangible personal property that will become a

component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and
(e) The sale of zero emissions buses.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption ~~((certification))~~ certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support ~~((and))~~ a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, ~~((and))~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

~~((4))~~ (e) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for the energy input into the production process.

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(g) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

(5) This section expires ~~((January 1, 2020))~~ July 1, 2025.

Sec. 12. RCW 82.12.816 and 2009 c 459 s 5 are each amended to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) Electric vehicle batteries or fuel cells, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

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(b) Labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells; ~~(and)~~

(c) Tangible personal property that will become a component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and

(d) Zero emissions buses.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support ~~(an)~~ a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, ~~(and)~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(e) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for the energy input into the production process.

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(g) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) This section expires ((January 1, 2020)) July 1, 2025.

Sec. 13. RCW 82.16.0496 and 2017 c 116 s 2 are each amended to read as follows:

(1)(a)(i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in

the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	((50%)) 75% of incremental cost	\$25,000	\$2,000,000
14,001 to 26,500 pounds	((50%)) 75% of incremental cost	\$50,000	\$2,000,000
Above 26,500 pounds	((50%)) 75% of incremental cost	\$100,000	\$2,000,000

(ii) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to fifty percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of two million dollars.

(b) On September 1st of each year, any unused credits from any ~~((weight class))~~ category identified in ~~((the table in))~~ (a) of this subsection must be made available to applicants applying for credits under any other ~~((weight class listed))~~ category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section and RCW 82.04.4496 is subject to a maximum annual credit amount of six million dollars, and a maximum total credit amount of thirty-two and one-half million dollars beginning July 15, 2015.

(c) The credit provided in (a)(i) of this subsection ~~((+))~~ is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in (a)(i) of this subsection ~~((+))~~ multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per ~~((vehicle class))~~ category in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or ~~((thirty))~~ fifty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1)(a)(i) of this section may not exceed the lesser of two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.04 RCW.

(5) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.04.4496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion

thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section and RCW 82.04.4496 to exceed thirty-two and one-half million dollars. The department must provide notification on its web site monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

- (a) Complete an application for the credit which must include:
 - (i) The name, business address, and tax identification number of the applicant;
 - (ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;
 - (iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;
 - (iv) The incremental cost of the alternative fuel system for vehicle credits;
 - (v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the infrastructure;
 - (vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;
 - (vii) The gross weight of each vehicle for vehicle credits;
 - (viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and
 - (ix) Any other information deemed necessary by the department to support administration or reporting of the program.
- (b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:
 - (i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;
 - (ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit; ~~((and))~~
 - (iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and
 - (iv) Any other information deemed necessary by the department to support administration or reporting of the program.
- (c) Provide final documentation within ~~((fifteen))~~ thirty days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:
 - (i) A copy of the final invoice for the vehicle or infrastructure-related items;
 - (ii) A copy of the factory build sheet or equivalent documentation;
 - (iii) The vehicle identification number of each vehicle;
 - (iv) The incremental cost of the alternative fuel system for

vehicle credits;

(v) Attestations signed by both the seller and purchaser of the vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit ~~((is))~~ and total limit are reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; ~~((or))~~

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or

(iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle conversion is complete, or the construction or installation of the infrastructure is complete.

(13) The definitions in RCW 82.04.4496 apply to this section.

(14) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(15)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal

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transportation account to the general fund.

(16) Credits may be earned under this section from January 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached.

~~((17) Credits earned under this section may not be used after January 1, 2022.~~

~~((18) This section expires January 1, 2022.)~~

Sec. 14. RCW 82.29A.125 and 2009 c 459 s 3 are each amended to read as follows:

(1) Leasehold excise tax may not be imposed on leases to tenants of public lands for purposes of installing, maintaining, and operating electric vehicle infrastructure.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, ~~((and))~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(e) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for energy input into the production process.

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(3) This section expires ~~((January 1, 2020))~~ July 1, 2025.

Sec. 15. RCW 82.44.200 and 2015 3rd sp.s. c 44 s 404 are each amended to read as follows:

The electric vehicle ~~((charging infrastructure))~~ account is created in the transportation infrastructure account. Proceeds from the principal and interest payments made on loans from the account must be deposited into the account. Expenditures from the account may be used only for the purposes specified in RCW 47.04.350, sections 9 and 10 of this act, and the support of other transportation electrification and alternative fuel related purposes. Moneys in the account may be spent only after appropriation.

NEW SECTION. Sec. 16. A new section is added to chapter 47.04 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this

specific purpose through the 2023-2025 biennium, the department's public-private partnership office must develop a pilot program to support clean alternative fuel car sharing programs to provide clean alternative fuel vehicle use opportunities to underserved communities and low to moderate income members of the workforce not readily served by transit or located in transportation corridors with emissions that exceed federal or state emissions standards. Nonprofit organizations or local governments, including housing authorities, with a demonstrated history of managing or implementing low-income transportation clean alternative fuel and shared mobility pilot programs are eligible to participate in this program.

(2) The department must determine specific eligibility criteria, based on the requirements of this section, the report submitted to the legislature by the Puget Sound clean air agency entitled facilitating low-income utilization of electric vehicles, and other factors relevant to increasing clean alternative fuel vehicle use in underserved and low to moderate income communities. The department may adopt rules specifying the eligibility criteria it selects.

(3) The department may conduct preliminary workshops with potential bidders and other potential partners to determine the best method of designing the pilot program.

(4) The department must include the following elements in its proposal evaluation and scoring methodology: History of successful management of equity focused clean alternative fuel vehicle projects; substantial level of involvement from community-based, equity focused organizations in the project; plan for long-term financial sustainability of the work beyond the duration of the grant period; matching resources leveraged for the project; and geographical diversity of the projects selected.

(5) After selecting successful proposals under this section, the department may provide grant funding to them. The total grant amount available per project may range from fifty thousand to two hundred thousand dollars. The grant opportunity must include possible funding of vehicles, charging or refueling station infrastructure, staff time, and any other expenses required to implement the project. No more than ten percent of grant funds may be used for administrative expenses.

(6)(a) Any property acquired with state grant funding under this section by nongovernmental participants must be used solely for program purposes and, if sold, the proceeds of the sale must be used solely for program purposes.

(b) At the termination of a program for providing alternative fuel car sharing services, the state must be reimbursed for any property acquired with state grant funding under this section that nongovernmental participants in the program retain at the time of program termination. The amount of reimbursement may under no circumstances be less than the fair market value of the property at the time of the termination of the program.

NEW SECTION. Sec. 17. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce must conduct a study to identify opportunities to reduce barriers to battery and fuel cell electric vehicle adoption by lower income residents of the state through the use of vehicle and infrastructure financing assistance. The study must include an assessment of opportunities to work with nonprofit lenders to facilitate vehicle purchases through the use of loan-loss reserves and rate buy downs by qualified borrowers purchasing battery and fuel cell electric vehicles that are eligible for the tax exemptions under sections 9 and 10 of this act, and may address additional financing assistance opportunities identified. The study must focus on potential borrowers who are at or below eighty percent of the state median household income. The study may also address any additional opportunities identified to increase electric

vehicle adoption by lower income residents of the state.

(2) The department of commerce must provide a report detailing the findings of this study to the transportation committees of the legislature by June 30, 2020, and may contract with a consultant on all or a portion of the study.

NEW SECTION. Sec. 18. A new section is added to chapter 47.66 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose through the 2023-2025 biennium, the department's public transportation division shall establish a green transportation capital grant program. The purpose of the grant program is to aid any transit authority in funding cost-effective capital projects to reduce the carbon intensity of the Washington transportation system, examples of which include: Electrification of vehicle fleets, including battery and fuel cell electric vehicles; modification or replacement of capital facilities in order to facilitate fleet electrification and/or hydrogen refueling; necessary upgrades to electrical transmission and distribution systems; and construction of charging and fueling stations. The department's public transportation division shall identify projects and shall submit a prioritized list of all projects requesting funding to the legislature by December 1st of each even-numbered year.

(b) The department's public transportation division shall select projects based on a competitive process that considers the following criteria:

(i) The cost-effectiveness of the reductions in carbon emissions provided by the project; and

(ii) The benefit provided to transitioning the entire state to a transportation system with lower carbon intensity.

(2) The department's public transportation division must establish an advisory committee to assist in identifying projects under subsection (1) of this section. The advisory committee must include representatives from the department of ecology, the department of commerce, the utilities and transportation commission, and at least one transit authority.

(3) In order to receive green transportation capital grant program funding for a project, a transit authority must provide matching funding for that project that is at least equal to twenty percent of the total cost of the project.

(4) The department's public transportation division must report annually to the transportation committees of the legislature on the status of any grant projects funded by the program created under this section.

(5) For purposes of this section, "transit authority" means a city transit system under RCW 35.58.2721 or chapter 35.95A RCW, a county public transportation authority under chapter 36.57 RCW, a metropolitan municipal corporation transit system under chapter 36.56 RCW, a public transportation benefit area under chapter 36.57A RCW, an unincorporated transportation benefit area under RCW 36.57.100, a regional transit authority under chapter 81.112 RCW, or any special purpose district formed to operate a public transportation system.

Sec. 19. RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of

interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle (~~charging infrastructure~~) account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure

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account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving

administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 20. This section is the tax preference performance statement for the tax preferences contained in sections 21 and 22, chapter . . . , Laws of 2019 (sections 21 and 22 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of electric vessels in Washington. It is the legislature's intent to establish a sales and use tax exemption on certain electric vessels in order to reduce the price charged to customers for electric vessels.

(3) To measure the effectiveness of the tax preferences in sections 21 and 22, chapter . . . , Laws of 2019 (sections 21 and 22 of this act) in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of electric vessels titled in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing and the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary.

NEW SECTION. Sec. 21. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of new battery-powered electric marine propulsion systems with continuous power greater than fifteen kilowatts.

(b) The sale of new vessels equipped with propulsion systems that qualify under (a) of this subsection.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that

would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) For the purposes of this section:

(a) "Battery-powered electric marine propulsion system" means a fully electric outboard or inboard motor used by vessels, the sole source of propulsive power of which is the energy stored in the battery packs. The term includes required accessories, such as throttles, displays, and battery packs; and

(b) "Vessel" includes every watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(5) This section expires July 1, 2025.

NEW SECTION. Sec. 22. A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) New battery-powered electric marine propulsion systems with continuous power greater than fifteen kilowatts; and

(b) New vessels equipped with propulsion systems that qualify under (a) of this subsection.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) For the purposes of this section, "battery-powered electric marine propulsion system" and "vessel" have the same meanings as provided in section 22 of this act.

(5) This section expires July 1, 2025.

NEW SECTION. Sec. 23. A new section is added to chapter 46.17 RCW to read as follows:

To realize the environmental benefits of electrification of the transportation system it is necessary to support the adoption of electric vehicles and other electric technology in the state by incentivizing the purchase of these vehicles, building out the charging infrastructure, developing greener transit options, and supporting clean alternative fuel infrastructure. Therefore, it is the intent of the legislature to support these activities through the imposition of new transportation electrification fees in this section.

(1) A vehicle that both (a) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (b) is capable of traveling at least thirty miles using only battery power, is subject to an annual seventy-five dollar transportation electrification fee to be collected by the department, county auditor, or other agent or subagent appointed by the director, in addition to any other fees and taxes required by law. For administrative efficiencies, the transportation electrification fee must be collected at the same time as vehicle

registration renewals and may only be collected for vehicles that are renewing an annual vehicle registration.

(2) Beginning October 1, 2019, in lieu of the fee in subsection (1) of this section for a electric or alternative fuel vehicle that is not required to pay the fees established in RCW 46.17.323 (1) and (4), the department, county auditor, or other agent or subagent appointed by the director must require that the applicant for the annual vehicle registration renewal of such electric or alternative fuel vehicle pay a seventy-five dollar hybrid vehicle transportation electrification fee, in addition to any other fees and taxes required by law.

(3) The fees required under this section must be deposited in the electric vehicle account created in RCW 82.44.200, until July 1, 2025, when the fee must be deposited in the motor vehicle account.

NEW SECTION. Sec. 24. Sections 1 through 7, 12, and 14 through 23 of this act take effect August 1, 2019.

NEW SECTION. Sec. 25. Sections 8 and 13 of this act take effect January 1, 2020."

On page 1, line 1 of the title, after "adoption;" strike the remainder of the title and insert "amending RCW 28B.30.903, 47.04.350, 80.28.---, 80.28.360, 82.04.4496, 82.08.816, 82.12.816, 82.16.0496, 82.29A.125, and 82.44.200; amending 2019 c ... (SHB 1512) s 1 (uncodified); reenacting and amending RCW 43.84.092; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 47.04 RCW; adding a new section to chapter 47.66 RCW; adding a new section to chapter 46.17 RCW; creating new sections; providing effective dates; providing contingent effective dates; and providing expiration dates."

MOTION

Senator Warnick moved that the following amendment no. 839 by Senator Warnick be adopted:

On page 39, line 16, after "annual" strike "seventy-five" and insert "fifty"

Senator Warnick spoke in favor of adoption of the amendment to the striking amendment.

Senator King spoke against adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 839 by Senator Warnick on page 39, line 16 to striking amendment no. 832.

The motion by Senator Warnick did not carry and amendment no. 839 was not adopted by voice vote.

MOTION

Senator Saldaña moved that the following amendment no. 890 by Senators King and Saldaña be adopted:

On page 39, line 25 of the amendment, after "for a" strike "electric" and insert "hybrid"

On page 39, line 29 of the amendment, after "such" strike "electric" and insert "hybrid"

On page 39, after line 35 of the amendment, insert
 "(4) This section only applies to a vehicle that is designed to have the capability to drive at a speed of more than thirty-five miles per hour."

Correct any internal references accordingly.

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Senators Saldaña and King spoke in favor of adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 890 by Senators King and Saldaña on page 39, line 25 to striking amendment no. 832.

The motion by Senator Saldaña carried and amendment no. 890 was adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 832 by Senators Saldaña, Hobbs and King as amended to Engrossed Second Substitute House Bill No. 2042.

The motion by Senator Saldaña carried and striking amendment no. 832 as amended was adopted by voice vote.

MOTION

On motion of Senator Saldaña, the rules were suspended, Engrossed Second Substitute House Bill No. 2042 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Saldaña, King and Hobbs spoke in favor of passage of the bill.

Senators Fortunato, Honeyford and Mullet spoke against passage of the bill.

Vice President Pro Tempore Conway assumed the chair.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2042 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2042 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rivers, Saldaña, Salomon, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hasegawa, Holy, Honeyford, Mullet, O'Ban, Padden, Schoesler, Sheldon, Short, Wagoner and Wilson, L.

Excused: Senator Rolfes

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2042, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290. Under suspension of the rules, the bill was returned to second reading

for the purposes of amendment(s). The House adopted the following amendment(s): 5290-S2.E AMH SENN H3195.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that it is a goal of our state to divert juveniles who have committed status offenses, behaviors that are prohibited under law only because of an individual's status as a minor, away from the juvenile justice system because a stay in detention is a predictive factor for future criminal justice system involvement. The legislature finds that Washington has been using the valid court order exception of the juvenile justice and delinquency prevention act, a loophole in federal law allowing judges to detain status offenders for disobeying court orders, more than any other state in the country. The legislature finds that use of the valid court order exception to detain youth for acts like truancy, breaking curfew, or running away from home is counterproductive and may worsen outcomes for at-risk youth.

(2) The legislature further finds that these youth should not be confined with or treated with the same interventions as criminal offenders. The legislature also finds that studies show a disproportionality in race, gender, and socioeconomic status of youth referred to courts or detained, or both. Likewise, the legislature finds that community-based interventions are more effective at addressing underlying causes of status offenses than detention and can reduce court caseloads and lower system costs. As a result, it is the intent of the legislature to strengthen and fund community-based programs that are culturally relevant and focus on addressing disproportionality of youth of color, especially at-risk youth.

(3) The legislature finds that appropriate interventions may include secure, semi-secure, and nonsecure out-of-home placement options, community-based mentoring, counseling, family reconciliation, behavioral health services, and other services designed to support youth and families in crisis and to prevent the need for out-of-home placement. The legislature recognizes that in certain circumstances, a court may find pursuant to this act that less restrictive alternatives to secure confinement are not available or appropriate and that clear, cogent, and convincing evidence requires commitment to a secure residential program with intensive wraparound services. The legislature intends to expand the availability of such interventions statewide by July 1, 2023.

NEW SECTION. Sec. 2. A new section is added to chapter 7.21 RCW to read as follows:

(1) It is the policy of the state of Washington to eliminate the use of juvenile detention as a remedy for contempt of a valid court order for youth under chapters 13.34 and 28A.225 RCW and child in need of services petition youth under chapter 13.32A RCW.

(a) Beginning July 1, 2020, youth may not be committed to juvenile detention as a contempt sanction under chapter 13.34 RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(b) Beginning July 1, 2020, youth may not be committed to juvenile detention as a contempt sanction for child in need of services proceedings under chapter 13.32A RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(c) Beginning July 1, 2021, youth may not be committed to juvenile detention as a contempt sanction for truancy proceedings

under chapter 28A.225 RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(2)(a) It is also the policy of the state of Washington to entirely phase out the use of juvenile detention as a remedy for contempt of a valid court order for at-risk youth under chapter 13.32A RCW by July 1, 2023. After this date, at-risk youth may not be committed to juvenile detention as a contempt sanction under chapter 13.32A RCW, and a warrant may not be issued for failure to appear at a court hearing that requires commitment of the at-risk youth to juvenile detention.

(b) Until July 1, 2023, any at-risk youth committed to juvenile detention as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, must be detained in such a manner so that no direct communication or physical contact may be made between the youth and any youth who is detained to juvenile detention pursuant to a violation of criminal law, unless these separation requirements would result in a youth being detained in solitary confinement.

(c) After July 1, 2023, at-risk youth may be committed to a secure residential program with intensive wraparound services, subject to the requirements under RCW 13.32A.250, as a remedial sanction for contempt under chapter 13.32A RCW or for failure to appear at a court hearing under chapter 13.32A RCW.

Sec. 3. RCW 7.21.030 and 2001 c 260 s 6 are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has did not carry or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In cases under chapters 13.32A, 13.34, and 28A.225 RCW and subject to the requirements under RCW 13.32A.250 and 28A.225.090, commitment to juvenile detention for a period of time not to exceed ~~((seven days))~~ seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt under chapter 13.32A, 13.34, or 28A.225 RCW, or for failure to appear at a court hearing under chapter 13.32A, 13.34, or 28A.225 RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for

enforcement of its order:

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt under chapter 13.32A, 13.34, or 28A.225 RCW, or for failure to appear at a court hearing under chapter 13.32A, 13.34, or 28A.225 RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 4. RCW 7.21.030 and 2019 c ... s 3 (section 3 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has did not carry or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter ~~(s))~~ 13.32A ~~((,-13.34,))~~ RCW and in cases under chapter 28A.225 RCW and subject to the requirements under RCW 13.32A.250 and 28A.225.090, commitment to juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically

determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A(~~(-13.34,))~~ RCW or for cases under chapter 28A.225 RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A(~~(-13.34,))~~ RCW or for cases under chapter 28A.225 RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A(~~(-13.34,))~~ RCW or for cases under chapter 28A.225 RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A(~~(-13.34,))~~ RCW or for cases under chapter 28A.225 RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 5. RCW 7.21.030 and 2019 c ... s 4 (section 4 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has did not carry or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter 13.32A RCW (~~(and in cases under chapter 28A.225 RCW)~~) and subject to the requirements under RCW 13.32A.250 (~~(and 28A.225.090)~~), commitment to juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A RCW (~~(or for cases under chapter 28A.225 RCW)~~), or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW (~~(or for cases under chapter 28A.225 RCW)~~), the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A RCW (~~(or for cases under chapter 28A.225 RCW)~~), or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW (~~(or for cases under chapter 28A.225 RCW)~~), shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 6. RCW 7.21.030 and 2019 c ... s 5 (section 5 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has did not carry or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter 13.32A RCW and subject to the requirements under RCW 13.32A.250, commitment to ~~((juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction))~~ a secure residential program with intensive wraparound services.

(ii) Beginning July 1, 2023, prior to committing any youth to ((juvenile detention)) a secure residential program with intensive wraparound services as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) ~~((Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW, shall be:~~

~~(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and~~

~~(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.~~

~~((4))~~ Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 7. RCW 13.32A.250 and 2000 c 162 s 14 are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

~~(3)(a)~~ If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

~~(b)(i)~~ The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to ((seven days)) seventy-two hours, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

~~((4))~~ (ii) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

~~((5))~~ (4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

~~((6))~~ (5) Whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention. ((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention

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~~review hearing must be held in accordance with RCW 13.32A.065-)~~

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 8. RCW 13.32A.250 and 2019 c ... s 7 (section 7 of this act) are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

- (i) Community restitution;
- (ii) Residential and nonresidential programs with intensive wraparound services;
- (iii) A requirement that the child meet with a mentor for a specified number of times; or
- (iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to seventy-two hours, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

(ii) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this

subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 9. RCW 13.32A.250 and 2019 c ... s 8 (section 8 of this act) are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

- (i) Community restitution;
- (ii) Residential and nonresidential programs with intensive wraparound services;
- (iii) A requirement that the child meet with a mentor for a specified number of times; or
- (iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement ~~((for up to seventy-two hours))~~ to a secure residential program with intensive wraparound services, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. ~~((The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy two hour period.))~~

(ii) A child placed in confinement for contempt under this section ~~((shall))~~ may be placed in ~~((confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county))~~ a secure crisis residential center or any program approved by the department offering secure confinement and intensive wraparound services appropriate to the needs of the child. The child may not be placed in a detention facility as defined in RCW 13.40.020. Secure residential programs with intensive wraparound services as used in this section may be defined as secure juvenile correctional facilities for the purposes of federal law only.

(c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 10. RCW 13.32A.150 and 2000 c 123 s 17 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the juvenile court shall not accept the filing of a child in need of services petition by the child or the parents or the filing of an at-risk youth petition by the parent, unless verification is provided that the department has completed a family assessment. The family assessment shall involve the multidisciplinary team if one exists. The family assessment or plan of services developed by the multidisciplinary team shall be aimed at family reconciliation, reunification, and avoidance of the out-of-home placement of the child. ~~((If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section or the parent may proceed under RCW 13.32A.191.))~~

(2) A child or a child's parent may file with the juvenile court a child in need of services petition to approve an out-of-home placement for the child before completion of a family assessment. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition must be filed in the county where the parent resides. The petition shall allege that the child is a child in need of services and shall ask only that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve the placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an out-of-home placement under this chapter.

(3) A petition may not be filed if the child is the subject of a proceeding under chapter 13.34 RCW.

Sec. 11. RCW 13.34.165 and 2000 c 122 s 21 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in RCW 7.21.030(2)~~((+))~~.

(2) The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to ~~((seven days))~~ seventy-two hours.

(3) A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

~~((5))~~ (3)(a) Subject to (b) of this subsection, whenever the court finds probable cause to believe, based upon consideration of a motion ((for contempt)) and the information set forth in a supporting declaration, that a child ((has violated a placement order entered under this chapter)) is missing from care, the court may issue an order directing law enforcement to pick up and ((take)) return the child to ((detention)) department custody. ((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))

(b) If the department is notified of the child's whereabouts and authorizes the child's location, the court must withdraw the order directing law enforcement to pick up and return the child to department custody.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 12. RCW 13.34.165 and 2019 c ... s 11 (section 11 of this act) are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in RCW 7.21.030(2).

~~((2))~~ ((The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to seventy-two hours.

~~((3))~~ A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

~~((4))~~ (4) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

~~((5))~~ (3)(a) Subject to (b) of this subsection, whenever the court finds probable cause to believe, based upon consideration of a motion and the information set forth in a supporting declaration, that a child is missing from care, the court may issue an order directing law enforcement to pick up and return the child to department custody.

(b) If the department is notified of the child's whereabouts and authorizes the child's location, the court must withdraw the order directing law enforcement to pick up and return the child to department custody.

~~((6))~~ (4) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 13. RCW 28A.225.090 and 2017 c 291 s 5 are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including

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an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(2)(a) If the child fails to comply with the court order, the court may impose:

- (i) Community restitution;
- (ii) Nonresidential programs with intensive wraparound services;
- (iii) A requirement that the child meet with a mentor for a specified number of times; or
- (iv) Other services and interventions that the court deems appropriate.

(b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than ~~((seven days))~~ seventy-two hours. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present.

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable

diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as meaningful community restitution. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

Sec. 14. RCW 28A.225.090 and 2019 c ... s 13 (section 13 of this act) are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

- (a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;
- (b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;
- (c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

~~(2)((a))~~ If the child fails to comply with the court order, the court may impose:

~~((i))~~ (a) Community restitution;

~~((ii))~~ (b) Nonresidential programs with intensive wraparound services;

~~((iii))~~ (c) A requirement that the child meet with a mentor for a specified number of times; or

~~((iv))~~ (d) Other services and interventions that the court deems appropriate.

~~((b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than seventy-two hours. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present.))~~

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may ~~((order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may))~~ impose alternatives to detention ~~((such as meaningful community restitution. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW))~~ consistent with best practice models for reengagement with school.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

Sec. 15. RCW 43.185C.260 and 2018 c 58 s 61 are each

amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement~~((or~~

~~((d) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued under this chapter or chapter 13.34 RCW or that the court has issued an order for law enforcement pick up of the child under this chapter or chapter 13.34 RCW)).~~

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) No child may be placed in a secure facility except as provided in this chapter.

Sec. 16. RCW 43.185C.265 and 2015 c 69 s 14 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 43.185C.260(1) (a) or (b) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department of ~~((social and health services))~~ children, youth, and families, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a

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reasonable distance of the parent’s home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center’s secure facility or a center’s semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance if:

(i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of abuse or neglect;

(ii) It is not practical to transport the child to his or her home or place of the parent’s employment; or

(iii) There is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, request the department of ~~((social and health services))~~ children, youth, and families to accept custody of the child. If the department of ~~((social and health services))~~ children, youth, and families determines that an appropriate placement is currently available, the department of ~~((social and health services))~~ children, youth, and families shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department of ~~((social and health services))~~ children, youth, and families may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition, obtaining parental consent, or obtaining an order for placement under chapter 13.34 RCW. Upon transferring a child to the department of ~~((social and health services))~~ children, youth, and families’ custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department of ~~((social and health services))~~ children, youth, and families declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth shelter. The officer shall immediately notify the department of ~~((social and health services))~~ children, youth, and families if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 43.185C.260(1)(c) ~~((or (d)))~~ shall inform the child of the reason for custody. An officer taking a child into custody under RCW 43.185C.260(1)(c) may release the child to the supervising agency, may return the child to the placement authorized by the supervising agency, or shall take the child to a designated crisis residential center ~~((’s secure facility. If the secure facility is not available, not located within a reasonable distance, or full, the officer shall take the child to a semi-secure crisis residential center. An officer taking a child into custody under RCW 43.185C.260(1)(d) may place the child in a juvenile detention facility as provided in RCW 43.185C.270 or a secure facility, except that the child shall be taken to detention whenever the officer has been notified that a juvenile court has entered a detention order under this chapter or chapter 13.34 RCW)).~~

(3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 43.185C.290(6).

(4) Whenever an officer transfers custody of a child to a crisis residential center or the department of ~~((social and health~~

~~services))~~ children, youth, and families, the child may reside in the crisis residential center or may be placed by the department of ~~((social and health services))~~ children, youth, and families in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.

(5) The department of ~~((social and health services))~~ children, youth, and families shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 43.185C.260 may be taken.

Sec. 17. RCW 2.56.032 and 2016 c 205 s 19 are each amended to read as follows:

(1)(a) To accurately track the extent to which courts order youth into a secure detention facility in Washington state for the violation of a court order related to a truancy, at-risk youth, or a child in need of services petition, all juvenile courts shall transmit youth-level secure detention data to the administrative office of the courts.

(b) Data may either be entered into the statewide management information system for juvenile courts or securely transmitted to the administrative office of the courts at least monthly. Juvenile courts shall provide, at a minimum, the name and date of birth for the youth, the court case number assigned to the petition, the reasons for admission to the juvenile detention facility, the date of admission, the date of exit, and the time the youth spent in secure confinement.

(c) Courts are also encouraged to report individual-level data reflecting whether a detention alternative, such as electronic monitoring, was used, and the time spent in detention alternatives.

(d) The administrative office of the courts and the juvenile court administrators must work to develop uniform data standards for detention.

(2) The administrative office of the courts shall deliver an annual statewide report to the legislature that details the number of Washington youth who are placed into detention facilities during the preceding calendar year. The first report shall be delivered by March 1, 2017, and shall detail the most serious reason for detention and youth gender, race, and ethnicity. The report must have a specific emphasis on youth who are detained for reasons relating to a truancy, at-risk youth, or a child in need of services petition. The report must:

(a) Consider the written findings described in RCW 7.21.030(2)(e)(ii)(B), and provide an analysis of the rationale and evidence used and the less restrictive options considered;

(b) Monitor the utilization of alternatives to detention;

(c) Track trends in the use of at-risk youth petitions;

(d) Track trends in the use of secure residential programs with intensive wraparound services; and

(e) Track the race and gender of youth with at-risk petitions.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) RCW 43.185C.270 (Youth services—Officer taking child into custody—Placing in detention—Detention review hearing—Hearing on contempt) and 2015 c 69 s 15; and

(2) 1998 c 296 s 35 (uncodified).

NEW SECTION. Sec. 19. Except for sections 4, 5, 6, 8, 9, 12, and 14 of this act, this necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes

effect July 1, 2019.

NEW SECTION. Sec. 20. Sections 4, 8, and 12 of this act take effect July 1, 2020.

NEW SECTION. Sec. 21. Sections 5 and 14 of this act take effect July 1, 2021.

NEW SECTION. Sec. 22. Sections 6 and 9 of this act take effect July 1, 2023."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Darneille moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5290.

Senator Darneille spoke in favor of the motion.

Senator Walsh spoke against the motion.

Senator Liias demanded a roll call.

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

Senators Becker, Padden, Rivers, Sheldon, O'Ban and Braun spoke against the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Darneille that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5290.

ROLL CALL

The Secretary called the roll on the motion by Senator Darneille that the Senate concur in House amendment(s) to Engrossed Second Substitute Senate Bill No. 5290 and the motion carried by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

President Habib assumed the chair.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5290, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5290, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5695 with the following amendment(s): 5695-S AMH ENGR H2801.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that individuals who engage in contrived or repeated violations of the state's high occupancy vehicle lane restrictions frustrate the state's congestion management, and justifiably incite indignation and anger among fellow transportation system users. The legislature intends the escalating penalties prescribed in this act to rebuke and discourage such conduct within Washington's transportation system.

Sec. 2. RCW 46.20.289 and 2016 c 203 s 6 are each amended to read as follows:

Except for traffic violations committed under RCW 46.61.165, the department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has did not carry to respond to a notice of traffic infraction for a moving violation, did not carry to appear at a requested hearing for a moving violation, violated a written promise to appear in court for a notice of infraction for a moving violation, or has did not carry to comply with the terms of a notice of traffic infraction, criminal complaint, or citation for a moving violation, or when the department receives notice from another state under Article IV of the nonresident violator compact under RCW 46.23.010 or from a jurisdiction that has entered into an agreement with the department under RCW 46.23.020, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after July 1, 2005. A suspension under this section takes effect pursuant to the provisions of RCW 46.20.245, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges until the person provides evidence from the court that all penalties and restitution have been paid. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.

Sec. 3. RCW 46.61.165 and 2013 c 26 s 2 are each amended to read as follows:

(1) The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of

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one or more of the following: (a) Public transportation vehicles; (b) motorcycles; (c) private motor vehicles carrying no fewer than a specified number of passengers; or (d) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are authorized pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) The state department of transportation and the local authorities authorized to reserve all or any portion of any highway under their respective jurisdictions, for exclusive or preferential use, may prohibit the use of a high occupancy vehicle lane by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle lane fails to meet department of transportation standards and falls below forty-five miles per hour at least ninety percent of the time during the peak hours, as determined by the department of transportation or the local authority, whichever operates the facility.

(4) Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction. A person who commits a traffic infraction under this section is also subject to additional monetary penalties as defined in this subsection. The additional monetary penalties are separate from the base penalty, fees, and assessments issued for the traffic infraction and are intended to raise awareness, and improve the efficiency, of the high occupancy vehicle lane system.

(a) Whenever a person commits a traffic infraction under this section, an additional monetary penalty of fifty dollars must be collected, and, in the case that a person has already committed a violation under this section within two years of committing this violation, then an additional one hundred fifty dollars must be collected.

(b) Any time a person commits a traffic infraction under this section and is using a dummy, doll, or other human facsimile to make it appear that an additional person is in the vehicle, the person must be assessed a two hundred dollar penalty, which is in addition to the penalties in (a) of this subsection.

(c) The monetary penalties under (a) and (b) of this subsection are additional, separate, and distinct penalties from the base penalty and are not subject to fees or assessments specified in RCW 46.63.110, 3.62.090, and 2.68.040.

(d)(i) The additional penalties collected under (a) of this

subsection must be distributed as follows:

(A) Twenty-five percent must be deposited into the congestion relief and traffic safety account created under section 7 of this act; and

(B) Seventy-five percent must be deposited into the motor vehicle fund created under RCW 46.68.070.

(ii) The additional penalty collected under (b) of this subsection must be deposited into the congestion relief and traffic safety account created under section 7 of this act.

(e) Violations committed under this section are excluded from eligibility as a moving violation for driver's license suspension under RCW 46.20.289 when a person subsequently fails to respond to a notice of traffic infraction for this moving violation, fails to appear at a requested hearing for this moving violation, violates a written promise to appear in court for a notice of infraction for this moving violation, or fails to comply with the terms of a notice of traffic infraction for this moving violation.

(5) Local authorities are encouraged to establish a process for private transportation providers, as described under subsections (1) and (3) of this section, to apply for the use of public transportation facilities reserved for the exclusive or preferential use of public transportation vehicles. The application and review processes should be uniform and should provide for an expeditious response by the local authority. Whenever practicable, local authorities should enter into agreements with such private transportation providers to allow for the reasonable use of these facilities.

(6) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department of transportation, and is offered by an employer for the benefit of its employees.

Sec. 4. RCW 46.63.110 and 2012 c 82 s 1 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this

chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has did not carry to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of

time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

(11) The additional monetary penalties for a violation of RCW 46.61.165 are not subject to assessments or fees provided under this section.

Sec. 5. RCW 3.62.090 and 2004 c 15 s 5 are each amended to read as follows:

(1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to seventy percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under RCW 46.61.5055, and in addition to the public safety and education assessment required

under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08.250. The additional assessment required by this subsection shall not be suspended or waived by the court.

(3) This section does not apply to the fee imposed under RCW 46.63.110(7), the penalty imposed under RCW 46.63.110(8), or the penalty assessment imposed under RCW 10.99.080. This section does not apply to the additional monetary penalties under RCW 46.61.165.

Sec. 6. RCW 2.68.040 and 1994 c 8 s 2 are each amended to read as follows:

(1) To support the judicial information system account provided for in RCW 2.68.020, the supreme court may provide by rule for an increase in fines, penalties, and assessments, and the increased amount shall be forwarded to the state treasurer for deposit in the account:

(a) Pursuant to the authority of RCW 46.63.110(~~((2))~~) (3), the sum of ten dollars to any penalty collected by a court pursuant to supreme court infraction rules for courts of limited jurisdiction;

(b) Pursuant to RCW 3.62.060, a mandatory appearance cost in the initial sum of ten dollars to be assessed on all defendants; and

(c) Pursuant to RCW 46.63.110(~~((5))~~) (6), a ten-dollar assessment for each account for which a person requests a time payment schedule.

(2) Notwithstanding a provision of law or rule to the contrary, the assessments provided for in this section may not be waived or suspended and shall be immediately due and payable upon forfeiture, conviction, deferral of prosecution, or request for time payment, as each shall occur.

(3) The supreme court is requested to adjust these assessments for inflation.

(4) This section does not apply to the additional monetary penalties under RCW 46.61.165.

NEW SECTION. Sec. 7. A new section is added to chapter 46.68 RCW to read as follows:

The congestion relief and traffic safety account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for purposes related to congestion relief and traffic safety."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5695.

Senators Liias and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5695.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5695 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5695, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5695, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 14; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wagoner, Walsh, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Bailey, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, Mullet, Padden, Schoesler, Sheldon, Short and Warnick

SUBSTITUTE SENATE BILL NO. 5695, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SIGNED BY THE PRESIDENT

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

SUBSTITUTE SENATE BILL NO. 5025,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5526,
SENATE BILL NO. 5596,
SUBSTITUTE SENATE BILL NO. 5955,
and ENGROSSED SUBSTITUTE SENATE BILL NO. 5993.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2167, by House Committee on Finance (originally sponsored by Tarleton)

Relating to tax revenue. Revised for 1st Substitute: Concerning tax revenue.

The measure was read the second time.

MOTION

Senator Braun moved that Substitute House Bill No. 2167 be referred to the Committee on Ways & Means.

Senators Braun, Short, Mullet and O'Ban spoke for the motion by Senator Braun that the bill be referred.

Senator Liias spoke against the motion by Senator Braun that the bill be referred.

Senator Short demanded a roll call.

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

MOTION

Senator Braun moved to amended his motion to refer Substitute House Bill No. 2167 to the Committee on Ways & Means to instead refer the bill to the Committee on Financial Institutions, Economic Development & Trade.

Senators Braun, Short and Sheldon spoke in favor of the amended motion.

Senator Liias spoke against the amended motion.

Senator Short demanded a roll call.

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

The President declared the question before the Senate to be the motion by Senator Braun to amend the motion by Senator Braun and refer Substitute House Bill No. 2167 to the Committee on Financial Institutions, Economic Development & Trade instead of the Committee on Ways & Means.

ROLL CALL

The Secretary called the roll on the motion by Senator Braun to amend the motion by Senator Braun and refer Substitute House Bill No. 2167 to the Committee on Financial Institutions, Economic Development & Trade instead of the Committee on Ways & Means.

Pursuant to Rule 24, Senator Short moved a call of the Senate.

The President declared the question before the Senate to be the motion of a call of the Senate. The motion did not carry by a rising vote.

The Secretary announced the roll on the motion to amend and the motion did not carry by the following vote: Yeas, 24; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Mullet, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Takko, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Van De Wege, Wellman and Wilson, C.

Absent: Senator Palumbo

The Lieutenant Governor voted nay.

PARLIAMENTARY INQUIRY

Senator Wagoner: "As you pointed out, we have not done this before, I have not done this before, so I'm just wondering is there an opportunity now to speak on the underlying amendment or has that time passed?"

PARLIAMENTARY INQUIRY

President Habib:: "There is. There is. If you'd like to speak to the underlying motion by Senator Braun which is not to commit, recommit the bill to the Committee on Ways & Means, you may. Please proceed."

Senator Wagoner spoke in favor of the motion by Senator Braun to refer Substitute House Bill No. 2167 to the Committee on Ways & Means.

The President declared the question before the Senate to be the motion by Senator Braun to refer Substitute House Bill No. 2167 to the Committee on Ways & Means:

ROLL CALL

The Secretary call the roll on the motion by Senator Braun to

refer Substitute House Bill No. 2167 to the Committee on Ways & Means and the motion did not carry by the following vote: Yeas, 24; Nays, 25; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Mullet, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Takko, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Van De Wege, Wellman and Wilson, C.

MOTION

Senator Schoesler moved that the following amendment no. 893 by Senator Schoesler be adopted:

On page 2, line 5, strike "1.2" and insert "0.6"

Senators Schoesler, Mullet, Ericksen and Becker spoke in favor of adoption of the amendment.

Senator Rolfes spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 2, line 5 to Substitute House Bill No. 2167.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Schoesler and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Mullet, O'Ban, Padden, Rivers, Salomon, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Takko, Van De Wege, Wellman and Wilson, C..

MOTION

Senator Short moved that the following amendment no. 892 by Senator Short be adopted:

On page 4, after line 21, insert the following:

"NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for all taxes paid during the calendar year on interest received by financial institutions for agricultural loans issued.

(2) A person claiming the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3) A person claiming the credit provided in this section must

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file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. Sec. 4. The provisions of RCW 82.32.805 and 82.32.808 do not apply to section 2 of this act."

On page 1, line 1 of the title, after "revenue;" strike the remainder of the title and insert "adding new sections to chapter 82.04 RCW; and creating new sections."

Senators Short, Mullet and Schoesler spoke in favor of adoption of the amendment.

Senator Kuderer spoke against adoption of the amendment.

Senator Short demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Short on page 4, after line 21 to Substitute House Bill No. 2167.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Short and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Mullet, O'Ban, Padden, Rivers, Salomon, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Takko, Van De Wege, Wellman and Wilson, C. .

MOTION

Senator Short moved that the following amendment no. 894 by Senator Short be adopted:

On page 4, after line 21, insert the following:

NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for all taxes paid during the calendar year on interest received by financial institutions for loans issued to small businesses with fifty or fewer employees.

(2) A person claiming the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. Sec. 4. The provisions of RCW 82.32.805 and 82.32.808 do not apply to section 2 of this act."

On page 1, line 1 of the title, after "revenue;" strike the remainder of the title and insert "adding new sections to chapter 82.04 RCW; and creating new sections."

Senators Short and Mullet spoke in favor of adoption of the amendment.

Senators Carlyle, Zeiger and Fortunato spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 894 by Senator Short on page 4, after line 21 to Substitute House Bill No. 2167.

The motion by Senator Short did not carry and amendment no. 894 was not adopted by voice vote.

MOTION

Senator Short moved that the following amendment no. 895 by Senator Short be adopted:

On page 4, after line 21, insert the following:

NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for all taxes paid during the calendar year on interest received by financial institutions for loans issued to first-time homebuyers.

(2) A person claiming the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. Sec. 4. The provisions of RCW 82.32.805 and 82.32.808 do not apply to section 2 of this act."

On page 1, line 1 of the title, after "revenue;" strike the remainder of the title and insert "adding new sections to chapter 82.04 RCW; and creating new sections."

Senator Short spoke in favor of adoption of the amendment.

Senator Short demanded a roll call.

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

Senators Schoesler, Mullet, Fortunato and Wilson, L. spoke in favor of adoption of the amendment.

Senator Frockt spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Short on page 4, line 21 to Substitute House Bill No. 2167.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Short and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Mullet, O'Ban, Padden, Rivers, Salomon, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Takko, Van De Wege, Wellman and Wilson, C. .

MOTION

Senator Braun moved that the following amendment no. 896 by Senator Braun be adopted:

On page 4, after line 21, insert the following:

"NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for all taxes paid during the calendar year on interest received by financial institutions for loans issued to women, minority, and veteran-owned businesses.

(2) A person claiming the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. Sec. 4. The provisions of RCW 82.32.805 and 82.32.808 do not apply to section 2 of this act."

On page 1, line 1 of the title, after "revenue;" strike the remainder of the title and insert "adding new sections to chapter 82.04 RCW; and creating new sections."

Senators Braun and Short spoke in favor of adoption of the amendment.

Senator Rolfes spoke against adoption of the amendment.

Senator Short demanded a roll call.

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

Senators Brown and Mullet spoke in favor of adoption of the amendment.

Senator Hasegawa spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Braun on page 4, line 21 to Substitute House Bill No. 2167.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Braun and the amendment was not adopted by the following vote: Yeas, 24; Nays, 25; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Mullet, O'Ban, Padden, Rivers, Salomon, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Takko, Van De Wege, Wellman and Wilson, C. .

MOTION

Senator Schoesler moved that the following amendment no. 897 by Senator Schoesler be adopted:

On page 4, after line 21, insert the following:

"NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for all taxes paid during the calendar year on the interest

received by financial institutions on loans issued for affordable housing projects.

(2) A person claiming the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. Sec. 4. The provisions of RCW 82.32.805 and 82.32.808 do not apply to section 3 of this act."

On page 1, line 1 of the title, after "revenue;" strike the remainder of the title and insert "adding new sections to chapter 82.04 RCW; and creating new sections."

Senators Schoesler and Short spoke in favor of adoption of the amendment.

Senator Kuderer spoke against adoption of the amendment.

Senator Short demanded a roll call.

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

Senators Mullet and Fortunato spoke in favor of adoption of the amendment.

Senator Hasegawa spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 4, line 21 to Substitute House Bill No. 2167.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Schoesler and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Mullet, O'Ban, Padden, Rivers, Salomon, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Takko, Van De Wege, Wellman and Wilson, C. .

MOTION

On motion of Senator Rolfes, the rules were suspended, Substitute House Bill No. 2167 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rolfes, Conway, Liias and Hasegawa spoke in favor of passage of the bill.

Senators Braun, Ericksen, Mullet, Sheldon, Fortunato, Hobbs, Schoesler and Wagoner spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2167.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2167 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

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Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

SUBSTITUTE SENATE BILL NO. 5362,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5825,
and ENGROSSED SENATE BILL NO. 6016.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Mullet, O’Ban, Padden, Palumbo, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

SECOND READING

INITIATIVE NO. 1000, by People of the State of Washington
Concerning diversity, equity, and inclusion.

The measure was read the second time.

SUBSTITUTE HOUSE BILL NO. 2167, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Hunt, the rules were suspended, Initiative No. 1000 was advanced to third reading, the second reading considered the third and the initiative was placed on final passage.

Senators Nguyen, Kuderer, Hasegawa, Dhingra and Wilson, C. spoke in favor of passage of the initiative.

Senators Zeiger, Brown, Wagoner, O’Ban, Ericksen and Mullet spoke against passage of the initiative.

MOTIONS

On motion of Senator Wilson, C., Senators Carlyle and Palumbo were excused.

On motion of Senator Saldaña, Senator Hobbs was excused.

The President declared the question before the Senate to be the final passage of Initiative No. 1000.

ROLL CALL

The Secretary called the roll on the final passage of Initiative No. 1000 and the initiative passed the Senate by the following vote: Yeas, 26; Nays, 22; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Mullet, O’Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Palumbo

INITIATIVE NO. 1000, having received the constitutional majority, was declared passed. There being no objection, the title of the initiative was ordered to stand as the title of the act.

MOTION

At 8:43 p.m., the President declared the Senate to be temporarily at ease subject to the call of the President.

The Senate was called to order at 8:45 p.m. by President Habib.

MOTION

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

PERSONAL PRIVILEGE

Senator Randall: “I rise today to recognize some of Washington’s most dedicated and perhaps least acknowledged public servants. We all know a wonderful family three generations who work together to make sure that we are able to do our best work for the people of Washington. Jean-Pierre and Kerri, Airyl Skylyr, Brittany along with some of the youngest members of the Simon family, keep us fed. They know our coffee orders and our favorite breakfast. They give us a quiet place to hide from the floor when we all need a break. They care so much about the work that we do here and count all of us as friends and team members. And outside of their work here in Olympia they are tireless workers for our community. They have a beautiful restaurant. Airyl’s also a welder. Their parents, they represent such wonderful family values and committed Washingtonians to our economy. And I would wonder, Mr. President, if you might be willing to bring our friends out on to the floor?”

The rose and recognized the Simon family who were present at the bar of the senate.

PERSONAL PRIVILEGE

Senator Sheldon: “Mr. President, I just wanted to relate something. What a great family and we’ve all enjoyed their their hospitality and their friendship and I go back just a few years and I won’t tell you what year because you could figure it out but the majority party decided that we should just have soup and sandwiches. And I could tell you Mr. President that was the worst session we’ve ever had here.”

MOTION

At 5:27 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 8:09 p.m. by President Habib.

SIGNED BY THE PRESIDENT

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

ENGROSSED SECOND SUBSTITUTE
SENATE BILL NO. 5091,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5160,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5183,

MESSAGES FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 6004, and the same is herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 28, 2019

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1160 and has passed the bill as recommended by the Conference Committee.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 28, 2019

MR. PRESIDENT:

The House has passed:

HOUSE INITIATIVE NO. 1000, and the same is herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 28, 2019

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1326, ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2042,

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

At 8:46 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 8:56 p.m. by President Habib.

MESSAGE FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2140 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Liias moved that the Senate insist on its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 2140 and ask the House to concur thereon.

Senators Liias and Braun spoke in favor of passage of the motion.

The President declared the question before the Senate to be motion by Senator Liias that the Senate insist on its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 2140 and ask the House to concur thereon.

The motion by Senator Liias carried and the Senate insisted on its position in the Senate amendment(s) to Engrossed Substitute

House Bill No. 2140 and again asked the House to concur thereon by voice vote.

MOTION

At 8:57 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:37 p.m. by President Habib.

MESSAGES FROM THE HOUSE

April 27, 2019

MR. PRESIDENT:

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

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 28, 2019

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1101, SUBSTITUTE HOUSE BILL NO. 1102, ENGROSSED SUBSTITUTE HOUSE BILL NO. 1160, SUBSTITUTE HOUSE BILL NO. 1170, SUBSTITUTE HOUSE BILL NO. 1406, ENGROSSED SUBSTITUTE HOUSE BILL NO. 1768, ENGROSSED SUBSTITUTE HOUSE BILL NO. 1839, ENGROSSED HOUSE BILL NO. 2020, ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2158, SUBSTITUTE HOUSE BILL NO. 2159, ENGROSSED SUBSTITUTE HOUSE BILL NO. 2161, SUBSTITUTE HOUSE BILL NO. 2168,

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

SIGNED BY THE PRESIDENT

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

SENATE INITIATIVE NO. 1000, ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290, SUBSTITUTE SENATE BILL NO. 5695, and ENGROSSED SUBSTITUTE SENATE BILL NO. 6004.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2163, by House Committee on Appropriations (originally sponsored by Stokesbary)

Transferring extraordinary revenue growth from the budget stabilization account for K-12 education.

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The measure was read the second time.

WITHDRAWAL OF AMENDMENT

On motion of Senator Frockt and without objection, amendment no. 899 by Senator Frockt on page 1, line 6 to Engrossed Substitute House Bill No. 2163 was withdrawn.

MOTION

On motion of Senator Rolfes, the rules were suspended, Engrossed Substitute House Bill No. 2163 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rolfes spoke in favor of passage of the bill.

MOTION

On motion of Senator Short, Senators Rivers and Sheldon were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2163.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2163 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Lovelett, McCoy, Nguyen, O’Ban, Padden, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Ericksen, Frockt, Honeyford, Kuderer, Liias, Mullet and Wagoner

Excused: Senator Rivers

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2163, having received the constitutional required three-fifths majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:

The Speaker has signed:

- SUBSTITUTE SENATE BILL NO. 5025,
- ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5091,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5160,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5183,
- SUBSTITUTE SENATE BILL NO. 5362,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5526,
- SENATE BILL NO. 5596,
- SUBSTITUTE SENATE BILL NO. 5668,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5825,
- SENATE BILL NO. 5881,
- SUBSTITUTE SENATE BILL NO. 5883,
- SUBSTITUTE SENATE BILL NO. 5894,

- ENGROSSED SENATE BILL NO. 5937,
- SUBSTITUTE SENATE BILL NO. 5955,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5993,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5997,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5998,
- ENGROSSED SENATE BILL NO. 6016,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 28, 2019

MR. PRESIDENT:

The Speaker has signed:

- SENATE INITIATIVE NO. 1000,
- and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 28, 2019

MR. PRESIDENT:

The Speaker has signed:

- ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290,
- SUBSTITUTE SENATE BILL NO. 5695,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 6004,
- and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

On motion of Senator Liias, and without objection, the rules were suspended and the Committee on Agriculture, Water, Natural Resources & Parks was relieved of further consideration of Senate Bill No. 5871, concerning the Columbia River recreational salmon and steelhead endorsement program, and the bill was placed on the day’s second reading calendar.

MOTION

At 10:45 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:50 p.m. by President Habib.

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

REPORT OF THE CONFERENCE COMMITTEE

Engrossed Substitute House Bill No. 1109

April 27, 2019

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute House Bill No. 1109, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

And the bill do pass as recommended by the conference committee.

Signed by Senators Frockt and Rolfes; Representatives Ormsby and Robinson.

MOTION

Senator Rolfes moved that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1109 be adopted.

Senators Rolfes, Palumbo and Conway spoke in favor of passage of the motion.

Senators Braun, Schoesler, Mullet, Ericksen and Fortunato spoke against passage of the motion.

The President declared the question before the Senate to be the motion by Senator Rolfes that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1109 be adopted.

The motion by Senator Rolfes carried and the Report of the Conference Committee was adopted by voice vote.

MOTION

On motion of Senator Bailey, Senator Rivers was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1109, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1109, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Mullet, O'Ban, Padden, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Rivers

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1109, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:

The House has passed:

SENATE CONCURRENT RESOLUTION NO. 8406, and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

SIGNED BY THE PRESIDENT

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

SUBSTITUTE HOUSE BILL NO. 1101,
SUBSTITUTE HOUSE BILL NO. 1102,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1160,
SUBSTITUTE HOUSE BILL NO. 1170,
SUBSTITUTE HOUSE BILL NO. 1406,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1768,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1839,
ENGROSSED HOUSE BILL NO. 2020,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2158,
SUBSTITUTE HOUSE BILL NO. 2159,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2161,
and SUBSTITUTE HOUSE BILL NO. 2168.

PERSONAL PRIVILEGE

Senator Rolfes: "Thank you Mr. President very much. Thank you all very much for the honor of serving as your Ways & Means committee chair this year. It really is quite a privilege. I think we're all privileged to serve here and it is really a privilege to be able to lead the Senate. And it really is a privilege to work with somebody like John Braun. What a great honor to have a partner like him. I also want to take a moment to thank the staff, which we always do, but I just want to say that there were times that I would, I would refer to our committee as a ship taken over by pirates or an airplane on a bumpy landing and we would and snakes coming out of the cargo load, and those guys always got us landed safely. No matter what was going on with committee, with committee members, with bills, their expertise is absolutely critical. We don't know what we are doing when we are writing a budget. We don't know what the timelines are, what the formats are, anything or any of that but the Ways & Means staff is incredible. Incredible. And so I would like to thank them personally and I think we'll all join in a round of applause for them. I am hoping that they are watching this on TV because they have been working on it for months, years. I want to start by thanking Matt Bridges and Ryan Moore from our caucus staff who are in the wings. And talk about, talk about capable, those guys are handling the pirates every day in our individual caucuses. Then I also want to thank, start by thanking Nazeedah and Maya who were the two staff people who were just made sure the meetings ran efficiently. They ran the front office. They made sure we all had our notes. Just incredible young people. The boss, of course, Michael Bezanson; James Kettel, who was in charge of writing the budget and managing all of that work as well; Jeff Mitchell; Richard Ramsey from the Capital Budget staff; Julie Murray; Michele Alishahi; Amanda Cecil; Claire Goodwin; Kayla Hammer; Jed Herman; Maria Hovde; Alia Kennedy; Danny Masterson; Jeff Naas; Sarian Scott; Sandy Stith; Travis Sugarman; and, of course, Jasmin Adams. Fantastic people. Highly capable staff and we are fortunate that they work for the state government. Can we give them a round of applause?"

The senate rose and recognized the work of the staff of the Committee on Ways & Means and caucus fiscal staff.

MESSAGE FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5313 with the following amendment(s): 5313-S.E AMH Sulp H3237.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.500.015 and 2018 c 266 s 303 are each amended to read as follows:

(1) Beginning in calendar year (~~2019~~) 2020 and each calendar year thereafter, the state must provide state local effort assistance funding to supplement school district enrichment levies as

provided in this section.

(2)(a) For an eligible school district ~~((:))~~ with an actual enrichment levy rate that is less than one dollar and fifty cents per thousand dollars of assessed value in the school district, the annual local effort assistance funding is equal to the school district's maximum local effort assistance multiplied by a fraction equal to the school district's actual enrichment levy rate divided by one dollar and fifty cents per thousand dollars of assessed value in the school district~~((s maximum allowable))~~.

(b) For an eligible school district with an actual enrichment levy rate that is equal to or greater than one dollar and fifty cents per thousand dollars of assessed value in the school district, the annual local effort assistance funding is equal to the school district's maximum local effort assistance.

(c) Beginning in calendar year 2022, for state-tribal education compact schools established under chapter 28A.715 RCW, the annual local effort assistance funding is equal to the actual enrichment levy per student as calculated by the superintendent of public instruction for the previous year for the school district in which the state-tribal education compact school is located, up to a maximum per student amount of one thousand five hundred fifty dollars as increased by inflation from the 2019 calendar year, multiplied by the student enrollment of the state-tribal education compact school in the prior school year.

(d) For a school district that meets the criteria in this subsection and is located west of the Cascades in a county that borders another state, the annual local effort assistance funding is equal to the local effort assistance funding authorized under (b) of this subsection and additional local effort assistance funding equal to the following amounts:

(i) Two hundred forty-six dollars per pupil in the 2019-20 school year for a school district with more than twenty-five thousand annual full-time equivalent students; and

(ii) Two hundred eighty-six dollars per pupil in the 2019-20 school year for a school district with more than twenty thousand annual full-time equivalent enrolled students but fewer than twenty-five thousand annual full-time equivalent enrolled students.

(3) The state local effort assistance funding provided under this section is not part of the state's program of basic education deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution.

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

(a) "Eligible school district" means a school district ~~((whose maximum allowable enrichment))~~ where the amount generated by a levy of one dollar and fifty cents per thousand dollars of assessed value in the school district, divided by the school district's total student enrollment in the prior school year, is less than the state local effort assistance threshold.

(b) For the purpose of this section, "inflation" means, for any school year, the rate of the yearly increase of the previous calendar year's annual average consumer price index for all urban consumers, Seattle area, using the official current base compiled by the bureau of labor statistics, United States department of labor.

(c) ~~((("Maximum allowable enrichment levy" means the maximum levy permitted by RCW 84.52.0531.~~

~~(d))~~ "Maximum local effort assistance" means the difference between the following:

(i) The school district's actual prior school year enrollment multiplied by the state local effort assistance threshold; and

(ii) The amount generated by a levy of one dollar and fifty cents per thousand dollars of assessed value in the school district~~((s maximum allowable enrichment levy)).~~

~~((e))~~ (d) "Prior school year" means the most recent school year completed prior to the year in which the state local effort assistance funding is to be distributed.

~~((f))~~ (e) "State local effort assistance threshold" means one thousand five hundred fifty dollars per student, increased for inflation beginning in calendar year 2020.

~~((g))~~ (f) "Student enrollment" means the average annual full-time equivalent student enrollment.

(5) For districts in a high/nonhigh relationship, the enrollments of the nonhigh students attending the high school shall only be counted by the nonhigh school districts for purposes of funding under this section.

(6) For school districts participating in an innovation academy cooperative established under RCW 28A.340.080, enrollments of students attending the academy shall be adjusted so that each participant district receives its proportional share of student enrollments for purposes of funding under this section.

Sec. 2. RCW 84.52.0531 and 2018 c 266 s 307 are each amended to read as follows:

(1) Beginning with taxes levied for collection in ~~((2019))~~ 2020, the maximum dollar amount which may be levied by or for any school district for enrichment levies under RCW 84.52.053 is equal to the lesser of ~~((one))~~ two dollars and fifty cents per thousand dollars of the assessed value of property in the school district or the maximum per-pupil limit. This maximum dollar amount shall be reduced accordingly as provided under RCW 43.09.2856(2).

(2) The definitions in this subsection apply to this section unless the context clearly requires otherwise.

(a) For the purpose of this section, "inflation" means, for any school year, the rate of the yearly increase of the previous calendar year's annual average consumer price index for all urban consumers, Seattle area, using the official current base compiled by the bureau of labor statistics, United States department of labor.

(b) "Maximum per-pupil limit" means:

(i) Two thousand five hundred dollars, as increased by inflation beginning with property taxes levied for collection in 2020, multiplied by the number of average annual full-time equivalent students enrolled in the school district in the prior school year, for school districts with fewer than forty thousand annual full-time equivalent students enrolled in the school district in the prior school year; or

(ii) Three thousand dollars, as increased by inflation beginning with property taxes levied for collection in 2020, multiplied by the number of average annual full-time equivalent students enrolled in the school district in the prior school year, for school districts with forty thousand or more annual full-time equivalent students enrolled in the school district in the prior school year. ~~((Beginning with property taxes levied for collection in 2020, the maximum per pupil limit shall be increased by inflation.))~~

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

(3) For districts in a high/nonhigh relationship, the enrollments of the nonhigh students attending the high school shall only be counted by the nonhigh school districts for purposes of funding under this section.

(4) For school districts participating in an innovation academy cooperative established under RCW 28A.340.080, enrollments of students attending the academy shall be adjusted so that each participant district receives its proportional share of student enrollments for purposes of funding under this section.

(5) Beginning with propositions for enrichment levies for collection in calendar year 2020 and thereafter, a district must receive approval of an enrichment levy expenditure plan under

RCW 28A.505.240 before submission of the proposition to the voters.

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

(7) Beginning with taxes levied for collection in 2018, enrichment levy revenues must be deposited in a separate subfund of the school district's general fund pursuant to RCW 28A.320.330, and for the 2018-19 school year are subject to the restrictions of RCW 28A.150.276 and the audit requirements of RCW 43.09.2856.

(8) Funds collected from levies for transportation vehicles, construction, modernization, or remodeling of school facilities as established in RCW 84.52.053 are not subject to the levy limitations in subsections (1) through (5) of this section.

Sec. 3. RCW 28A.320.330 and 2018 c 266 s 302 are each amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1)(a) A general fund for the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(b) By the 2018-19 school year, a local revenue subfund of its general fund to account for the financial operations of a school district that are paid from local revenues. The local revenues that must be deposited in the local revenue subfund are enrichment levies and transportation vehicle levies collected under RCW 84.52.053, local effort assistance funding received under chapter 28A.500 RCW, and other school district local revenues including, but not limited to, grants, donations, and state and federal payments in lieu of taxes, but do not include other federal revenues, or local revenues that operate as an offset to the district's basic education allocation under RCW 28A.150.250. School districts must track expenditures from this subfund separately to account for the expenditure of each of these streams of revenue by source, and must provide ~~((any))~~ the supplemental expenditure schedule(s) under (c) of this subsection, and any other supplemental expenditure schedules required by the superintendent of public instruction or state auditor, for purposes of RCW 43.09.2856.

(c) Beginning in the 2019-20 school year, the superintendent of public instruction must require school districts to provide a supplemental expenditure schedule by revenue source that identifies the amount expended by object for each of the following supplementary enrichment activities beyond the state funded amount:

(i) Minimum instructional offerings under RCW 28A.150.220 or 28A.150.260 not otherwise included on other lines;

(ii) Staffing ratios or program components under RCW 28A.150.260, including providing additional staff for class size reduction beyond class sizes allocated in the prototypical school model and additional staff beyond the staffing ratios allocated in the prototypical school formula;

(iii) Program components under RCW 28A.150.200, 28A.150.220, or 28A.150.260, not otherwise included on other lines;

(iv) Program components to support students in the program of special education;

(v) Program components of professional learning, as defined by RCW 28A.415.430, beyond that allocated under RCW 28A.150.415;

(vi) Extracurricular activities;

(vii) Extended school days or an extended school year;

(viii) Additional course offerings beyond the minimum instructional program established in the state's statutory program

of basic education;

(ix) Activities associated with early learning programs;

(x) Activities associated with providing the student transportation program;

(xi) Any additional salary costs attributable to the provision or administration of the enrichment activities allowed under RCW 28A.150.276;

(xii) Additional activities or enhancements that the office of the superintendent of public instruction determines to be a documented and demonstrated enrichment of the state's statutory program of basic education under RCW 28A.150.276; and

(xiii) All other costs not otherwise identified in other line items.

(d) For any salary and related benefit costs identified in (c)(xi), (xii), and (xiii) of this subsection, the school district shall maintain a record describing how these expenditures are documented and demonstrated enrichment of the state's statutory program of basic education. School districts shall maintain these records until the state auditor has completed the audit under RCW 43.09.2856.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life. Such renovation and replacement shall include, but shall not be limited to, major repairs, exterior painting of facilities, replacement and refurbishment of roofing, exterior walls, windows, heating and ventilating systems, floor covering in classrooms and public or common areas, and electrical and plumbing systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce

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energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f)(i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(g) Major equipment repair, painting of facilities, and other major preventative maintenance purposes. However, to the extent the funds are used for the purpose under this subsection (2)(g), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations. Based on the district's most recent two-year history of general fund maintenance expenditures, funds used for this purpose may not replace routine annual preventive maintenance expenditures made from the district's general fund.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forestland revenues that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

Sec. 4. RCW 43.09.2856 and 2018 c 266 s 406 are each amended to read as follows:

(1) Beginning with the 2019-20 school year, to ensure that school district local revenues are used solely for purposes of enriching the state's statutory program of basic education, the state auditor's regular financial audits of school districts must include a review of the expenditure of school district local revenues for compliance with RCW 28A.150.276, including the spending plan approved by the superintendent of public instruction under RCW 28A.505.240 and its implementation, and any supplemental contracts entered into under RCW 28A.400.200. The audit must also include a review of the expenditure schedule and supporting documentation required by RCW 28A.320.330(1)(c).

(2) If an audit under subsection (1) of this section results in findings that a school district has failed to comply with these

requirements, then within ninety days of completing the audit the auditor must report the findings to the superintendent of public instruction, the office of financial management, and the education and operating budget committees of the legislature. If the superintendent of public instruction receives a report of findings from the state auditor that an expenditure of a school district is out of compliance with the requirements of RCW 28A.150.276, and the finding is not resolved in the subsequent audit, the maximum taxes levied for collection by the school district under RCW 84.52.0531 in the following calendar year shall be reduced by the expenditure amount identified by the state auditor.

(3) The use of the state allocation provided for professional learning under RCW 28A.150.415 must be audited as part of the regular financial audits of school districts by the state auditor's office to ensure compliance with the limitations and conditions of RCW 28A.150.415."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wellman moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5313.

Senator Wellman spoke in favor of the motion.

Senators Braun, Padden and Mullet spoke against the motion.

Senator Palumbo spoke on the motion to concur.

The President declared the question before the Senate to be the motion by Senator Wellman that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5313.

The motion by Senator Wellman carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5313 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5313, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5313, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Mullet, O'Ban, Padden, Palumbo, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Rivers

ENGROSSED SUBSTITUTE SENATE BILL NO. 5313, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

April 28, 2019

The House passed SENATE BILL NO. 6025 with the following amendment(s): 6025 AMH WALJ ZOLL 070

On page 5, after line 33, insert the following:

"NEW SECTION. Sec. 3. The exemptions in this act apply to any public records requests made prior to the effective date of this act for which the disclosure of records has not already occurred."

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

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Senate Bill No. 6025.

Senators Honeyford and Hunt spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Senate Bill No. 6025.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6025 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6025, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6025, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Randall, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Carlyle, Frockt, Palumbo and Pedersen

Excused: Senator Rivers

SENATE BILL NO. 6025, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1873, by House Committee on Appropriations (originally sponsored by Pollet, Harris, Cody, Robinson, Tarleton, Frame, Bergquist, Ryu, Kilduff, Macri, Stonier, Dolan, Orwall, Doglio, Senn, Stanford, Appleton, Callan, Wylie, Peterson, Valdez, Walen, Leavitt, Kloba and Lovick)

Concerning the taxation of vapor products as tobacco products.

The measure was read the second time.

MOTION

Senator Kuderer moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:"

Part I Tax on Vapor Products

NEW SECTION. Sec. 101. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accessible container" means a container that is intended to be opened. The term does not mean a closed cartridge or closed container that is not intended to be opened such as a disposable e-cigarette.

(2) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(3) "Board" means the Washington state liquor and cannabis board.

(4) "Business" means any trade, occupation, activity, or enterprise engaged in selling or distributing vapor products in this state.

(5) "Distributor" mean any person:

(a) Engaged in the business of selling vapor products in this state who brings, or causes to be brought, into this state from outside the state any vapor products for sale;

(b) Who makes, manufactures, fabricates, or stores vapor products in this state for sale in this state;

(c) Engaged in the business of selling vapor products outside this state who ships or transports vapor products to retailers or consumers in this state; or

(d) Engaged in the business of selling vapor products in this state who handles for sale any vapor products that are within this state but upon which tax has not been imposed.

(6) "Indian country" has the same meaning as provided in RCW 82.24.010.

(7) "Manufacturer" has the same meaning as provided in RCW 70.345.010.

(8) "Manufacturer's representative" means a person hired by a manufacturer to sell or distribute the manufacturer's vapor products and includes employees and independent contractors.

(9) "Person" means: Any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, limited liability company, association, or society; the state and its departments and institutions; any political subdivision of the state of Washington; and any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. Except as provided otherwise in this chapter, "person" does not include any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(10) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, or train.

(11) "Retail outlet" has the same meaning as provided in RCW 70.345.010.

(12) "Retailer" has the same meaning as provided in RCW

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70.345.010.

(13) "Sale" has the same meaning as provided in RCW 70.345.010.

(14) "Taxpayer" means a person liable for the tax imposed by this chapter.

(15) "Vapor product" means any noncombustible product containing a solution that contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of shape or size that can be used to produce vapor from the solution, including an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. This term also includes liquid nicotine and any solution containing nicotine regardless of the type of cartridge or container in which it is sold.

(a) The term does not include:

(i) Any product approved by the United States food and drug administration for sale as a tobacco cessation product, medical device, or for other therapeutic purposes when such product is marketed and sold solely for such an approved purpose;

(ii) Any product that will become an ingredient or component in a vapor product manufactured by a distributor; or

(iii) Any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.

(b) For purposes of this subsection (15):

(i) "Cigarette" has the same meaning as provided in RCW 82.24.010; and

(ii) "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as provided in RCW 69.50.101.

NEW SECTION. Sec. 102. (1)(a) There is levied and collected a tax upon the sale, use, consumption, handling, possession, or distribution of all vapor products in this state as follows:

(i) All vapor products other than those taxed under (a)(ii) of this subsection are taxed at a rate equal to twenty-four cents per milliliter of liquid nicotine or solution containing nicotine, and a proportionate tax at the like rate on all fractional parts of a milliliter thereof.

(ii) Any accessible container of liquid nicotine, or solution containing nicotine, that is greater than five milliliters, is taxed at a rate equal to eight cents per milliliter of liquid or solution and a proportionate tax at the like rate on all fractional parts of a milliliter thereof.

(b) The tax in this section must be imposed based on the volume of the solution as listed by the manufacturer.

(2)(a) The tax under this section must be collected at the time the distributor: (i) Brings, or causes to be brought, into this state from without the state vapor products for sale; (ii) makes, manufactures, fabricates, or stores vapor products in this state for sale in this state; (iii) ships or transports vapor products to retailers or consumers in this state; or (iv) handles for sale any vapor products that are within this state but upon which tax has not been imposed.

(b) The tax imposed under this section must also be collected by the department from the consumer of vapor products where the tax imposed under this section was not paid by the distributor on such vapor products.

(3)(a) The moneys collected under this section must be deposited as follows:

(i) Fifty percent into the Andy Hill cancer research fund created in RCW 43.348.060; and

(ii) Fifty percent into the foundational public health services account created in section 103 of this act.

(b) The funding provided under this subsection is intended to

supplement and not supplant general fund investments in cancer research and foundational public health services.

NEW SECTION. Sec. 103. The foundational public health services account is created in the state treasury. Half of all of the moneys collected from the tax imposed on vapor products under RCW 66.44.010 and half of all moneys collected on the tax imposed on heated tobacco products under RCW 82.26.020 must be deposited into the account. Moneys in the account may be spent only after appropriation. Moneys in the account are to be used for the following purposes:

(1) To fund foundational health services. In the 2019-2021 biennium, at least twelve million dollars of the funds deposited into the account must be appropriated for this purpose. Beginning in the 2021-2023 biennium, fifty percent of the funds deposited into the account, but not less than twelve million dollars each biennium, are to be used for this purpose;

(2) To fund tobacco, vapor product, and nicotine control and prevention, and other substance use prevention and education. Beginning in the 2021-2023 biennium, seventeen percent of the funds deposited into the account are to be used for this purpose;

(3) To support increased access and training of public health professionals at public health programs at accredited public institutions of higher education in Washington. Beginning in the 2021-2023 biennium, five percent of the funds deposited into the account are to be used for this purpose;

(4) To fund enforcement by the state liquor and cannabis board of the provisions of this chapter to prevent sales of vapor products to minors and related provisions for control of marketing and product safety, provided that no more than eight percent of the funds deposited into the account may be appropriated for these enforcement purposes.

NEW SECTION. Sec. 104. It is the intent and purpose of this chapter to levy a tax on all vapor products sold, used, consumed, handled, possessed, or distributed within this state. It is the further intent and purpose of this chapter to impose the tax only once on all vapor products in this state. Nothing in this chapter may be construed to exempt any person taxable under any other law or under any other tax imposed under this title.

NEW SECTION. Sec. 105. The tax imposed by section 102 of this act does not apply with respect to any vapor products which under the Constitution and laws of the United States may not be made the subject of taxation by this state.

NEW SECTION. Sec. 106. (1) Every distributor must keep at each place of business complete and accurate records for that place of business, including itemized invoices, of vapor products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of vapor products made.

(2) These records must show the names and addresses of purchasers, the inventory of all vapor products, and other pertinent papers and documents relating to the purchase, sale, or disposition of vapor products. All invoices and other records required by this section to be kept must be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this chapter, and the vapor products contained therein, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees are denied free access or are hindered or interfered

with in making such examination, the registration certificate issued under RCW 82.32.030 of the distributor at such premises are subject to revocation by the department, and any licenses issued under chapter 70.345, 82.26, or 82.24 RCW are subject to suspension or revocation by the board.

NEW SECTION. Sec. 107. Every person required to be licensed under chapter 70.345 RCW who sells vapor products to persons other than the ultimate consumer must render with each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices. The person must preserve legible copies of all such invoices for five years from the date of sale.

NEW SECTION. Sec. 108. (1) Every retailer must procure itemized invoices of all vapor products purchased. The invoices must show the seller's name and address, the date of purchase, and all prices and discounts.

(2) The retailer must keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept under this section must be preserved for five years from the date of purchase.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any retail outlet without a search warrant, and inspect the premises for invoices required to be kept under this section and the vapor products contained in the retail outlet, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees are denied free access or are hindered or interfered with in making the inspection, the registration certificate issued under RCW 82.32.030 of the retailer at the premises is subject to revocation by the department, and any licenses issued under chapter 70.345, 82.26, or 82.24 RCW are subject to suspension or revocation by the board.

NEW SECTION. Sec. 109. (1)(a) Where vapor products upon which the tax imposed by this chapter has been reported and paid are shipped or transported outside this state by the distributor to a person engaged in the business of selling vapor products, to be sold by that person, or are returned to the manufacturer by the distributor or destroyed by the distributor, or are sold by the distributor to the United States or any of its agencies or instrumentalities, or are sold by the distributor to any Indian tribal organization, credit of such tax may be made to the distributor in accordance with rules prescribed by the department.

(b) For purposes of this subsection (1), the following definitions apply:

(i) "Indian distributor" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "distributor" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(ii) "Indian retailer" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "retailer" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(iii) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(2) Credit allowed under this section must be determined based on the tax rate in effect for the period for which the tax imposed by this chapter, for which a credit is sought, was paid.

NEW SECTION. Sec. 110. All of the provisions contained in chapter 82.32 RCW not inconsistent with the provisions of this chapter have full force and application with respect to taxes imposed under the provisions of this chapter.

NEW SECTION. Sec. 111. The department must authorize, as duly authorized agents, enforcement officers of the board to enforce provisions of this chapter. These officers are not employees of the department.

NEW SECTION. Sec. 112. (1) The department may by rule establish the invoice detail required under section 106 of this act for a distributor and for those invoices required to be provided to retailers under section 108 of this act.

(2) If a retailer fails to keep invoices as required under section 108 of this act, the retailer is liable for the tax owed on any uninvoiced vapor products but not penalties and interest, except as provided in subsection (3) of this section.

(3) If the department finds that the nonpayment of tax by the retailer was willful or if in the case of a second or plural nonpayment of tax by the retailer, penalties and interest must be assessed in accordance with chapter 82.32 RCW.

NEW SECTION. Sec. 113. (1) No person may transport or cause to be transported in this state vapor products for sale other than: (a) A licensed distributor under chapter 70.345 RCW, or a manufacturer's representative authorized to sell or distribute vapor products in this state under chapter 70.345 RCW; (b) a licensed retailer under chapter 70.345 RCW; (c) a seller with a valid delivery sale license under chapter 70.345 RCW; or (d) a person who has given notice to the board in advance of the commencement of transportation.

(2) When transporting vapor products for sale, the person must have in his or her actual possession, or cause to have in the actual possession of those persons transporting such vapor products on his or her behalf, invoices or delivery tickets for the vapor products, which must show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the vapor products being transported.

(3) In any case where the department or the board, or any peace officer of the state, has knowledge or reasonable grounds to believe that any vehicle is transporting vapor products in violation of this section, the department, board, or peace officer is authorized to stop the vehicle and to inspect it for contraband vapor products.

(4) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 114. The board must compile and maintain a current record of the names of all distributors, retailers, and delivery sales licenses under chapter 70.345 RCW and the status of their license or licenses. The information must be updated on a monthly basis and published on the board's official internet web site. This information is not subject to the confidentiality provisions of RCW 82.32.330 and must be disclosed to manufacturers, distributors, retailers, and the general public upon request.

NEW SECTION. Sec. 115. (1) No person engaged in or conducting business as a distributor or retailer in this state may:

(a) Make, use, or present or exhibit to the department or the board any invoice for any of the vapor products taxed under this chapter that bears an untrue date or falsely states the nature or quantity of the goods invoiced; or

(b) Fail to produce on demand of the department or the board all invoices of all the vapor products taxed under this chapter

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within five years prior to such demand unless the person can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond the person's control.

(2)(a) No person, other than a licensed distributor, retailer or delivery sales licensee, or manufacturer's representative, may transport vapor products for sale in this state for which the taxes imposed under this chapter have not been paid unless:

(i) Notice of the transportation has been given as required under section 113 of this act;

(ii) The person transporting the vapor products actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of vapor products being transported; and

(iii) The vapor products are consigned to or purchased by a person in this state who is licensed under chapter 70.345 RCW.

(b) A violation of this subsection (2) is a gross misdemeanor.

(3) Any person licensed under chapter 70.345 RCW as a distributor, and any person licensed under chapter 70.345 RCW as a retailer, may not operate in any other capacity unless the additional appropriate license is first secured, except as otherwise provided by law. A violation of this subsection (3) is a misdemeanor.

(4) The penalties provided in this section are in addition to any other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter.

(5) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 116. (1) A retailer that obtains vapor products from an unlicensed distributor or any other person that is not licensed under chapter 70.345 RCW must be licensed both as a retailer and a distributor and is liable for the tax imposed under section 102 of this act with respect to the vapor products acquired from the unlicensed person that are held for sale, handling, or distribution in this state. For the purposes of this subsection, "person" includes both persons defined in this act and any person immune from state taxation, such as the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(2) Every distributor licensed under chapter 70.345 RCW may sell vapor products to retailers located in Washington only if the retailer has a current retailer's license under chapter 70.345 RCW.

NEW SECTION. Sec. 117. A manufacturer that has manufacturer's representatives who sell or distribute the manufacturer's vapor products in this state must provide the board a list of the names and addresses of all such representatives and must ensure that the list provided to the board is kept current. A manufacturer's representative is not authorized to distribute or sell vapor products in this state unless the manufacturer that hired the representative has a valid distributor's license under chapter 70.345 RCW and that manufacturer provides the board a current list of all of its manufacturer's representatives as required by this section. A manufacturer's representative must carry a copy of the distributor's license of the manufacturer that hired the representative at all times when selling or distributing the manufacturer's vapor products.

NEW SECTION. Sec. 118. (1) Any vapor products in the possession of a person selling vapor products in this state acting as a distributor or retailer and who is not licensed as required under chapter 70.345 RCW, or a person who is selling vapor products in violation of RCW 82.24.550(6), may be seized without a warrant by any agent of the department, agent of the

board, or law enforcement officer of this state. Any vapor products seized under this subsection are deemed forfeited.

(2) Any vapor products in the possession of a person who is not a licensed distributor, delivery seller, manufacturer's representative, or retailer and who transports vapor products for sale without having provided notice to the board required under section 113 of this act, or without invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of vapor products being transported may be seized and are subject to forfeiture.

(3) All conveyances, including aircraft, vehicles, or vessels that are used, or intended for use to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of vapor products under subsection (2) of this section, may be seized and are subject to forfeiture except:

(a) A conveyance used by any person as a common or contract carrier having in actual possession invoices or delivery tickets showing the true name and address of the consignor or seller, the true name of the consignee or purchaser, and the quantity and brands of the vapor products transported, unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) A conveyance subject to forfeiture under this section by reason of any act or omission of which the owner establishes to have been committed or omitted without his or her knowledge or consent; or

(c) A conveyance encumbered by a bona fide security interest if the secured party neither had knowledge of nor consented to the act or omission.

(4) Property subject to forfeiture under subsections (2) and (3) of this section may be seized by any agent of the department, the board, or law enforcement officer of this state upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search warrant or an inspection under an administrative inspection warrant; or

(b) The department, board, or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

(5) This section may not be construed to require the seizure of vapor products if the department's agent, board's agent, or law enforcement officer reasonably believes that the vapor products are possessed for personal consumption by the person in possession of the vapor products.

(6) Any vapor products seized by a law enforcement officer must be turned over to the board as soon as practicable.

(7) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 119. (1) In all cases of seizure of any vapor products made subject to forfeiture under this chapter, the department or board must proceed as provided in RCW 82.24.135.

(2) When vapor products are forfeited under this chapter, the department or board may:

(a) Retain the property for official use or upon application by any law enforcement agency of this state, another state, or the District of Columbia, or of the United States for the exclusive use of enforcing this chapter or the laws of any other state or the District of Columbia or of the United States; or

(b) Sell the vapor products at public auction to the highest bidder after due advertisement. Before delivering any of the goods to the successful bidder, the department or board must

require the purchaser to pay the proper amount of any tax due. The proceeds of the sale must be first applied to the payment of all proper expenses of any investigation leading to the seizure and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. The balance of the proceeds and all money must be deposited in the general fund of the state. Proper expenses of investigation include costs incurred by any law enforcement agency or any federal, state, or local agency.

(3) The department or the board may return any property seized under the provisions of this chapter when it is shown that there was no intention to violate the provisions of this chapter. When any property is returned under this section, the department or the board may return the property to the parties from whom they were seized if and when such parties have paid the proper amount of tax due under this chapter.

NEW SECTION. Sec. 120. When the department or the board has good reason to believe that any of the vapor products taxed under this chapter are being kept, sold, offered for sale, or given away in violation of the provisions of this chapter, it may make affidavit of facts describing the place or thing to be searched, before any judge of any court in this state, and the judge must issue a search warrant directed to the sheriff, any deputy, police officer, or duly authorized agent of the department or the board commanding him or her diligently to search any building, room in a building, place, or vehicle as may be designated in the affidavit and search warrant, and to seize the vapor products and hold them until disposed of by law.

NEW SECTION. Sec. 121. (1)(a) Where vapor products upon which the tax imposed by this chapter has been reported and paid are shipped or transported outside this state by the distributor to a person engaged in the business of selling vapor products, to be sold by that person, or are returned to the manufacturer by the distributor or destroyed by the distributor, or are sold by the distributor to the United States or any of its agencies or instrumentalities, or are sold by the distributor to any Indian tribal organization, credit of such tax may be made to the distributor in accordance with rules prescribed by the department.

(b) For purposes of this subsection (1), the following definitions apply:

(i) "Indian distributor" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "distributor" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(ii) "Indian retailer" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "retailer" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(iii) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(2) Credit allowed under this section must be determined based on the tax rate in effect for the period for which the tax imposed by this chapter, for which a credit is sought, was paid.

NEW SECTION. Sec. 122. (1) Preexisting inventories of vapor products are subject to the tax imposed in section 102 of this act. All retailers and other distributors must report the tax due under section 102 of this act on preexisting inventories of vapor products on a form, as prescribed by the department, on or before October 31, 2019, and the tax due on such preexisting inventories

must be paid on or before January 31, 2020.

(2) Reports under subsection (1) of this section not filed with the department by October 31, 2019, are subject to a late filing penalty equal to the greater of two hundred fifty dollars or ten percent of the tax due under section 102 of this act on the taxpayer's preexisting inventories.

(3) The department must notify the taxpayer of the amount of tax due under section 102 of this act on preexisting inventories, which is subject to applicable penalties under RCW 82.32.090 (2) through (7) if unpaid after January 31, 2020. Amounts due in accordance with this section are not considered to be substantially underpaid for the purposes of RCW 82.32.090(2).

(4) Interest, at the rate provided in RCW 82.32.050(2), must be computed daily beginning February 1, 2020, on any remaining tax due under section 102 of this act on preexisting inventories until paid.

(5) A retailer required to comply with subsection (1) of this section is not required to obtain a distributor license as otherwise required under chapter 70.345 RCW as long as the retailer:

(a) Does not sell vapor products other than to ultimate consumers; and

(b) Does not meet the definition of "distributor" in section 101 of this act other than with respect to the sale of that retailer's preexisting inventory of vapor products.

(6) Taxes may not be collected under section 102 of this act from consumers with respect to any vapor products acquired before the effective date of this section.

(7) For purposes of this section, "preexisting inventory" means an inventory of vapor products located in this state as of the moment that section 102 of this act takes effect and held by a distributor for sale, handling, or distribution in this state.

Part II Conforming Amendments

Sec. 201. RCW 66.08.145 and 2016 sp.s. c 38 s 29 are each amended to read as follows:

(1) The liquor and cannabis board may issue subpoenas in connection with any investigation, hearing, or proceeding for the production of books, records, and documents held under this chapter or chapters 70.155, 70.158, 70.345, 82.24, ~~((and)) 82.26 ((RCW)), and 82.---~~ RCW (the new chapter created in section 507 of this act), and books and records of common carriers as defined in RCW 81.80.010, or vehicle rental agencies relating to the transportation or possession of cigarettes, vapor products, or other tobacco products.

(2) The liquor and cannabis board may designate individuals authorized to sign subpoenas.

(3) If any person is served a subpoena from the board for the production of records, documents, and books, and fails or refuses to obey the subpoena for the production of records, documents, and books when required to do so, the person is subject to proceedings for contempt, and the board may institute contempt of court proceedings in the superior court of Thurston county or in the county in which the person resides.

Sec. 202. RCW 66.44.010 and 1998 c 18 s 1 are each amended to read as follows:

(1) All county and municipal peace officers are hereby charged with the duty of investigating and prosecuting all violations of this title, and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and all fines imposed for violations of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor ~~((shall))~~ belong to the county, city or town wherein the court imposing the fine is located, and ~~((shall))~~ must be placed in

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the general fund for payment of the salaries of those engaged in the enforcement of the provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor (~~PROVIDED, That~~). However, all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law (~~shall~~) must be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

(2) In addition to any and all other powers granted, the board (~~shall have~~) has the power to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor.

(3) In addition to the other duties under this section, the board (~~shall~~) must enforce chapters 82.24 (~~and~~), 82.26 (~~RCW~~), and 82.--- RCW (the new chapter created in section 507 of this act).

(4) The board may appoint and employ, assign to duty and fix the compensation of, officers to be designated as liquor enforcement officers. Such liquor enforcement officers (~~shall~~) have the power, under the supervision of the board, to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor. They (~~shall~~) have the power and authority to serve and execute all warrants and process of law issued by the courts in enforcing the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 (~~and~~), 82.26 (~~RCW~~), and 82.--- RCW (the new chapter created in section 507 of this act). They (~~shall~~) have the power to arrest without a warrant any person or persons found in the act of violating any of the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 (~~and~~), 82.26 (~~RCW~~), and 82.--- RCW (the new chapter created in section 507 of this act).

Sec. 203. RCW 82.24.510 and 2013 c 144 s 50 are each amended to read as follows:

- (1) The licenses issuable under this chapter are as follows:
 - (a) A wholesaler's license.
 - (b) A retailer's license.

(2) Application for the licenses must be made through the business licensing system under chapter 19.02 RCW. The board must adopt rules regarding the regulation of the licenses. The board may refrain from the issuance of any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a wholesaler's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider any prior criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board may, in its discretion, grant or refuse the wholesaler's license or retailer's license, subject to the provisions of RCW 82.24.550.

(3) No person may qualify for a wholesaler's license or a retailer's license under this section without first undergoing a criminal background check. The background check must be

performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. A person who possesses a valid license on July 22, 2001, is subject to this subsection and subsection (2) of this section beginning on the date of the person's business license expiration under chapter 19.02 RCW, and thereafter. If the applicant or licensee also has a license issued under chapter 66.24 (~~or~~), 82.26, or 70.345 RCW, the background check done under the authority of chapter 66.24 (~~or~~), 82.26, or 70.345 RCW satisfies the requirements of this section.

(4) Each such license expires on the business license expiration date, and each such license must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board made pursuant thereto.

(5) Each license and any other evidence of the license that the board requires must be exhibited in each place of business for which it is issued and in the manner required for the display of a business license.

Sec. 204. RCW 82.24.550 and 2015 c 86 s 307 are each amended to read as follows:

(1) The board must enforce the provisions of this chapter. The board may adopt, amend, and repeal rules necessary to enforce the provisions of this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer the provisions of this chapter. The board may revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee to comply with any of the provisions of this chapter.

(3) A license may not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or any rule adopted under this chapter, must, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and, in the case of a second or further offense, must suspend the license or licenses for a period of not less than ninety consecutive business days nor more than twelve months, and, in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.26 or 70.345 RCW to a person whose license or licenses have been suspended or revoked under this section must also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year from the date of revocation of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under this chapter.

(6) A person whose license has been suspended or revoked may not sell cigarettes, vapor products, or tobacco products or permit cigarettes, vapor products, or tobacco products to be sold during the period of such suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form whatever.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal to the superior court of Thurston county. The superior court must review the

order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW.

(9) For purposes of this section((~~g~~);

(a) "Tobacco products" has the same meaning as provided in RCW 82.26.010; and

(b) "Vapor products" has the same meaning as provided in section 101 of this act.

Sec. 205. RCW 82.26.060 and 2009 c 154 s 3 are each amended to read as follows:

(1) Every distributor (~~((shall))~~) must keep at each place of business complete and accurate records for that place of business, including itemized invoices, of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of tobacco products made.

(2) These records (~~((shall))~~) must show the names and addresses of purchasers, the inventory of all tobacco products, and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products. All invoices and other records required by this section to be kept (~~((shall))~~) must be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees, may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this chapter, and the tobacco products contained therein, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees, are denied free access or are hindered or interfered with in making such examination, the registration certificate issued under RCW 82.32.030 of the distributor at such premises (~~((shall be))~~) is subject to revocation, and any licenses issued under this chapter or chapter 82.24 or 70.345 RCW are subject to suspension or revocation, by the department or board.

Sec. 206. RCW 82.26.080 and 2005 c 180 s 5 are each amended to read as follows:

(1) Every retailer (~~((shall))~~) must procure itemized invoices of all tobacco products purchased. The invoices (~~((shall))~~) must show the seller's name and address, the date of purchase, and all prices and discounts.

(2) The retailer (~~((shall))~~) must keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept under this section (~~((shall))~~) must be preserved for five years from the date of purchase.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any retail outlet without a search warrant, and inspect the premises for invoices required to be kept under this section and the tobacco products contained in the retail outlet, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees, are denied free access or are hindered or interfered with in making the inspection, the registration certificate issued under RCW 82.32.030 of the retailer at the premises is subject to revocation, and any licenses issued under this chapter or chapter 82.24 or 70.345 RCW are subject to suspension or revocation by the department.

Sec. 207. RCW 82.26.150 and 2013 c 144 s 52 are each amended to read as follows:

(1) The licenses issuable by the board under this chapter are as follows:

(a) A distributor's license; and

(b) A retailer's license.

(2) Application for the licenses must be made through the business licensing system under chapter 19.02 RCW. The board may adopt rules regarding the regulation of the licenses. The board may refuse to issue any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a distributor's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board may, in its discretion, issue or refuse to issue the distributor's license or retailer's license, subject to the provisions of RCW 82.26.220.

(3) No person may qualify for a distributor's license or a retailer's license under this section without first undergoing a criminal background check. The background check must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. If the applicant or licensee also has a license issued under chapter 66.24 (~~((or))~~) 82.24, or 70.345 RCW, the background check done under the authority of chapter 66.24, 70.345, or 82.24 RCW satisfies the requirements of this section.

(4) Each license issued under this chapter expires on the business license expiration date. The license must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board adopted pursuant to this chapter.

(5) Each license and any other evidence of the license required under this chapter must be exhibited in each place of business for which it is issued and in the manner required for the display of a business license.

Sec. 208. RCW 82.26.220 and 2015 c 86 s 308 are each amended to read as follows:

(1) The board must enforce this chapter. The board may adopt, amend, and repeal rules necessary to enforce this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer this chapter. The board may revoke or suspend the distributor's or retailer's license of any distributor or retailer of tobacco products in the state upon sufficient cause showing a violation of this chapter or upon the failure of the licensee to comply with any of the rules adopted under it.

(3) A license may not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or of any rule adopted under it, must, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and in the case of a second or further offense, suspend the license or licenses for a period of not less than ninety consecutive business days but not more than twelve

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months, and in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.24 or 70.345 RCW to a person whose license or licenses have been suspended or revoked under this section must also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under it.

(6) A person whose license has been suspended or revoked may not sell tobacco products, vapor products, or cigarettes or permit tobacco products, vapor products, or cigarettes to be sold during the period of suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal to the superior court of Thurston county. The superior court must review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW.

Sec. 209. RCW 82.32.300 and 1997 c 420 s 9 are each amended to read as follows:

(1) The administration of this and chapters 82.04 through 82.27 RCW of this title is vested in the department ~~((of revenue which shall))~~, which must prescribe forms and rules of procedure for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed thereunder.

(2) The department ~~((of revenue shall))~~ must make and publish rules and regulations, not inconsistent therewith, necessary to enforce provisions of this chapter and chapters 82.02 through 82.23B and 82.27 RCW, and the liquor ~~((control))~~ and cannabis board ~~((shall))~~ must make and publish rules necessary to enforce chapters 82.24 ~~((and))~~, 82.26 ~~((RCW))~~, and 82.--- RCW ~~((the new chapter created in section 507 of this act))~~, which ~~((shall have))~~ has the same force and effect as if specifically included therein, unless declared invalid by the judgment of a court of record not appealed from.

(3) The department may employ such clerks, specialists, and other assistants as are necessary. Salaries and compensation of such employees ~~((shall))~~ must be fixed by the department and ~~((shall be))~~ charged to the proper appropriation for the department.

(4) The department ~~((shall))~~ must exercise general supervision of the collection of taxes and, in the discharge of such duty, may institute and prosecute such suits or proceedings in the courts as may be necessary and proper.

Sec. 210. RCW 70.345.010 and 2016 sp.s. c 38 s 4 are each amended to read as follows:

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

(1) "Board" means the Washington state liquor and cannabis board.

(2) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing vapor products in this state.

(3) "Child care facility" has the same meaning as provided in RCW 70.140.020.

(4) "Closed system nicotine container" means a sealed, prefilled, and disposable container of nicotine in a solution or other form in which such container is inserted directly into an electronic cigarette, electronic nicotine delivery system, or other similar product, if the nicotine in the container is inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

(5) "Delivery sale" means any sale of a vapor product to a purchaser in this state where either:

(a) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the internet or other online service; or

(b) The vapor product is delivered by use of the mails or of a delivery service. The foregoing sales of vapor products constitute a delivery sale regardless of whether the seller is located within or without this state. "Delivery sale" does not include a sale of any vapor product not for personal consumption to a retailer.

(6) "Delivery seller" means a person who makes delivery sales.

(7) "Distributor" ~~((means any person who: (a) Sells vapor products to persons other than ultimate consumers; or~~

~~(b) Is engaged in the business of selling vapor products in this state and who brings, or causes to be brought, into this state from outside of the state any vapor products for sale))~~ has the same meaning as in section 101 of this act.

(8) "Liquid nicotine container" means a package from which nicotine in a solution or other form is accessible through normal and foreseeable use by a consumer and that is used to hold soluble nicotine in any concentration. "Liquid nicotine container" does not include closed system nicotine containers.

(9) "Manufacturer" means a person who manufactures and sells vapor products.

(10) "Minor" refers to an individual who is less than eighteen years old.

(11) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(12) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale.

(13) "Playground" means any public improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, including but not limited to any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

(14) "Retail outlet" means each place of business from which vapor products are sold to consumers.

(15) "Retailer" means any person engaged in the business of selling vapor products to ultimate consumers.

(16)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling vapor products, for advertising, promoting, or as a means of evading the provisions of this chapter.

(17) "School" has the same meaning as provided in RCW 70.140.020.

(18) "Self-service display" means a display that contains vapor products and is located in an area that is openly accessible to customers and from which customers can readily access such products without the assistance of a salesperson. A display case that holds vapor products behind locked doors does not constitute a self-service display.

(19) "Vapor product" means any noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance.

(a) "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(b) "Vapor product" does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.

(c) For purposes of this subsection (19), "marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as provided in RCW 69.50.101.

Sec. 211. RCW 70.345.030 and 2016 sp.s. c 38 s 6 are each amended to read as follows:

(1)(a) No person may engage in or conduct business as a retailer, distributor, or delivery seller in this state without a valid license issued under this chapter, except as otherwise provided by law. Any person who sells vapor products to ultimate consumers by a means other than delivery sales must obtain a retailer's license under this chapter. Any person who ~~((sells vapor products to persons other than ultimate consumers or who))~~ meets the definition of distributor under this chapter must obtain a distributor's license under this chapter. Any person who conducts delivery sales of vapor products must obtain a delivery sale license.

(b) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW.

(2) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may refuse to allow the enforcement officers of the board, on demand, to make full inspection of any place of business or vehicle where any of the vapor products regulated under this chapter are sold, stored, transported, or handled, or otherwise hinder or prevent such inspection. A person who violates this subsection is guilty of a gross misdemeanor.

(3) Any person licensed under this chapter as a distributor, any person licensed under this chapter as a retailer, and any person licensed under this chapter as a delivery seller may not operate in any other capacity unless the additional appropriate license is first secured, except as otherwise provided by law. A violation of this subsection is a misdemeanor.

(4) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may sell or give, or permit to sell or give, a product that contains any amount of any cannabinoid, synthetic cannabinoid, cathinone, or methcathinone, unless otherwise provided by law. A violation of this subsection (4) is punishable according to RCW 69.50.401.

(5) The penalties provided in this section are in addition to any

other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter.

Sec. 212. RCW 70.345.090 and 2016 sp.s. c 38 s 17 are each amended to read as follows:

(1) No person may conduct a delivery sale or otherwise ship or transport, or cause to be shipped or transported, any vapor product ordered or purchased by mail or through the internet to any person unless such seller has a valid delivery sale license as required under this chapter.

(2) No person may conduct a delivery sale or otherwise ship or transport, or cause to be shipped or transported, any vapor product ordered or purchased by mail or through the internet to any person under the minimum age required for the legal sale of vapor products as provided under RCW 70.345.140.

(3) A delivery sale licensee must provide notice on its mail order or internet sales forms of the minimum age required for the legal sale of vapor products in Washington state as provided by RCW 70.345.140.

(4) A delivery sale licensee must not accept a purchase or order from any person without first obtaining the full name, birth date, and residential address of that person and verifying this information through an independently operated third-party database or aggregate of databases, which includes data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication.

(5) A delivery sale licensee must accept payment only through a credit or debit card issued in the purchaser's own name. The licensee must verify that the card is issued to the same person identified through identity and age verification procedures in subsection (4) of this section.

(6) Before a delivery sale licensee delivers an initial purchase to any person, the licensee must verify the identity and delivery address of the purchaser by mailing or shipping to the purchaser a notice of sale and certification form confirming that the addressee is in fact the person placing the order. The purchaser must return the signed certification form to the licensee before the initial shipment of product. Certification forms are not required for repeat customers. In the alternative, before a seller delivers an initial purchase to any person, the seller must first obtain from the prospective customer an electronic certification, such as by email, that includes a declaration that, at a minimum, the prospective customer is over the minimum age required for the legal sale of a vapor product, and the credit or debit card used for payment has been issued in the purchaser's name.

(7) A delivery sale licensee must include on shipping documents a clear and conspicuous statement which includes, at a minimum, that the package contains vapor products, Washington law prohibits sales to those under the minimum age established by this chapter, and violations may result in sanctions to both the licensee and the purchaser.

(8) For purposes of this subsection (8), "vapor products" has the same meaning as provided in section 101 of this act.

(9) A person who knowingly violates this section is guilty of a class C felony, except that the maximum fine that may be imposed is five thousand dollars.

~~((9))~~ (10) In addition to or in lieu of any other civil or criminal remedy provided by law, a person who has violated this section is subject to a civil penalty of up to five thousand dollars for each violation. The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court.

~~((40))~~ (11) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of this section and to compel compliance with this section.

~~((44))~~ (12) Any violation of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for violation of this section lies solely with the attorney general. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

~~((42))~~ (13)(a) In any action brought under this section, the state is entitled to recover, in addition to other relief, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

(b) If a court determines that a person has violated this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the general fund.

~~((43))~~ (14) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this state.

~~((44))~~ (15) A licensee who violates this section is subject to license suspension or revocation by the board.

~~((45))~~ (16) The board may adopt by rule additional requirements for mail or internet sales.

~~((46))~~ (17) The board must not adopt rules prohibiting internet sales.

**Part III
Heated Tobacco Products**

Sec. 301. RCW 82.24.010 and 2012 2nd sp.s. c 4 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) "Board" means the state liquor ~~((control))~~ and cannabis board.

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state. "Cigarette" includes a roll-your-own cigarette, but does not include a heated tobacco product as defined in RCW 82.26.010.

(3) "Cigarette paper" means any paper or any other material except tobacco, prepared for use as a cigarette wrapper.

(4) "Cigarette tube" means cigarette paper made into a hollow cylinder for use in making cigarettes.

(5) "Commercial cigarette-making machine" means a machine that is operated in a retail establishment and that is capable of being loaded with loose tobacco, cigarette paper or tubes, and any other components related to the production of roll-your-own cigarettes, including filters.

(6) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian wholesaler or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country. For purposes of this chapter "Indian country" is defined in the manner set forth in 18 U.S.C. Sec. 1151.

(7) "Precollection obligation" means the obligation of a seller otherwise exempt from the tax imposed by this chapter to collect the tax from that seller's buyer.

(8) "Retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale or distributes any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales, and all persons operating under a retailer's registration certificate.

(9) "Retail selling price" means the ordinary, customary or usual price paid by the consumer for each package of cigarettes, less the tax levied by this chapter and less any similar tax levied by this state.

(10) "Roll-your-own cigarettes" means cigarettes produced by a commercial cigarette-making machine.

(11) "Stamp" means the stamp or stamps by use of which the tax levy under this chapter is paid or identification is made of those cigarettes with respect to which no tax is imposed.

(12) "Wholesaler" means every person who purchases, sells, or distributes any one or more of the articles taxed herein to retailers for the purpose of resale only.

(13) The meaning attributed, in chapter 82.04 RCW, to the words "person," "sale," "business" and "successor" applies equally in this chapter.

Sec. 302. RCW 82.26.010 and 2010 1st sp.s. c 22 s 4 are each reenacted and amended to read as follows:

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

(1) "Actual price" means the total amount of consideration for which tobacco products are sold, valued in money, whether received in money or otherwise, including any charges by the seller necessary to complete the sale such as charges for delivery, freight, transportation, or handling.

(2) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(3) "Board" means the state liquor ~~((control))~~ and cannabis board.

(4) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(5) "Cigar" means a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco. "Cigar" does not include a cigarette.

(6) "Cigarette" has the same meaning as in RCW 82.24.010.

(7) "Department" means the department of revenue.

(8) "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers, (d) any person engaged in the business of selling tobacco products in this state who handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(9) "Heated tobacco product" means a product containing tobacco that produces an inhalable aerosol by:

(a) Heating the tobacco by means of an electronic device without combustion of the tobacco; or

(b) Heat generated from a combustion source that only or primarily heats rather than burns the tobacco.

(10) "Indian country" means the same as defined in chapter 82.24 RCW.

~~((40))~~ (11) "Little cigar" means a cigar that has a cellulose acetate integrated filter.

~~((41))~~ (12) "Manufacturer" means a person who manufactures and sells tobacco products.

~~((42))~~ (13) "Manufacturer's representative" means a person hired by a manufacturer to sell or distribute the manufacturer's tobacco products, and includes employees and independent

contractors.

~~((43))~~ (14) "Moist snuff" means tobacco that is finely cut, ground, or powdered; is not for smoking; and is intended to be placed in the oral, but not the nasal, cavity.

~~((44))~~ (15) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. The term excludes any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

~~((45))~~ (16) "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, train, or vending machine.

~~((46))~~ (17) "Retail outlet" means each place of business from which tobacco products are sold to consumers.

~~((47))~~ (18) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers.

~~((48))~~ (19)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling tobacco products, for advertising, promoting, or as a means of evading the provisions of this chapter.

~~((49))~~ (20)(a) "Taxable sales price" means:

(i) In the case of a taxpayer that is not affiliated with the manufacturer, distributor, or other person from whom the taxpayer purchased tobacco products, the actual price for which the taxpayer purchased the tobacco products;

(ii) In the case of a taxpayer that purchases tobacco products from an affiliated manufacturer, affiliated distributor, or other affiliated person, and that sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers, the actual price for which that taxpayer sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iii) In the case of a taxpayer that sells tobacco products only to affiliated distributors or affiliated retailers, the price, determined as nearly as possible according to the actual price, that other distributors sell similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iv) In the case of a taxpayer that is a manufacturer selling tobacco products directly to ultimate consumers, the actual price for which the taxpayer sells those tobacco products to ultimate consumers;

(v) In the case of a taxpayer that has acquired tobacco products under a sale as defined in subsection ~~((48))~~ (19)(b) of this section, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers; or

(vi) In any case where (a)(i) through (v) of this subsection do not apply, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers.

(b) For purposes of (a)(i) and (ii) of this subsection only,

"person" includes both persons as defined in subsection ~~((44))~~ (15) of this section and any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(c) The department may adopt rules regarding the determination of taxable sales price under this subsection.

~~((20))~~ (21) "Taxpayer" means a person liable for the tax imposed by this chapter.

~~((21))~~ (22) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and any other product, regardless of form, that contains tobacco and is intended for human consumption or placement in the oral or nasal cavity or absorption into the human body by any other means, including heated tobacco products as defined in subsection (9) of this section, but does not include cigarettes as defined in RCW 82.24.010.

~~((22))~~ (23) "Unaffiliated distributor" means a distributor that is not affiliated with the manufacturer, distributor, or other person from whom the distributor has purchased tobacco products.

~~((23))~~ (24) "Unaffiliated retailer" means a retailer that is not affiliated with the manufacturer, distributor, or other person from whom the retailer has purchased tobacco products.

Sec. 303. RCW 82.26.020 and 2010 1st sp.s. c 22 s 5 are each amended to read as follows:

(1) There is levied and collected a tax upon the sale, handling, or distribution of all tobacco products in this state at the following rate:

(a) For cigars except little cigars, ninety-five percent of the taxable sales price of cigars, not to exceed sixty-five cents per cigar;

(b) For all tobacco products except those covered under separate provisions of this subsection, ninety-five percent of the taxable sales price;

(c) For moist snuff, as established in this subsection (1)(c) and computed on the net weight listed by the manufacturer:

(i) On each single unit consumer-sized can or package whose net weight is one and two-tenths ounces or less, a rate per single unit that is equal to the greater of 2.526 dollars or eighty-three and one-half percent of the cigarette tax under chapter 82.24 RCW multiplied by twenty; or

(ii) On each single unit consumer-sized can or package whose net weight is more than one and two-tenths ounces, a proportionate tax at the rate established in (c)(i) of this subsection (1) on each ounce or fractional part of an ounce; and

(d) For little cigars, an amount per cigar equal to the cigarette tax under chapter 82.24 RCW.

(2) The tax imposed on a product under this chapter must be reduced by fifty percent if that same product is issued a modified risk tobacco product order by the secretary of the United States department of health and human services pursuant to Title 21 U.S.C. Sec. 387k(g)(1), or by twenty-five percent if that same product is issued a modified risk tobacco product order by the secretary of the United States department of health and human services pursuant to Title 21 U.S.C. Sec. 387k(g)(2).

(3) Taxes under this section must be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) ships or transports tobacco products to

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retailers in this state, to be sold by those retailers, or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

~~((3) The moneys collected under this section must be deposited into the state general fund.))~~ (4)(a) Except as provided in (b) of this subsection, the moneys collected under this section must be deposited into the state general fund.

(b) The moneys collected on heated tobacco products under subsection (1)(b) of this section must be deposited as follows:

(i) Fifty percent into the Andy Hill cancer research fund created in RCW 43.348.060; and

(ii) Fifty percent into the foundational public health services account created in section 103 of this act.

(c) The funding provided under (b) of this subsection is intended to supplement and not supplant general fund investments in cancer research and foundational public health services.

**Part IV
Tribal Compacting**

Sec. 401. RCW 43.06.450 and 2001 c 235 s 1 are each amended to read as follows:

The legislature intends to further the government-to-government relationship between the state of Washington and Indians in the state of Washington by authorizing the governor to enter into contracts concerning the sale of cigarettes and vapor products. The legislature finds that these cigarette tax and vapor product tax contracts will provide a means to promote economic development, provide needed revenues for tribal governments and Indian persons, and enhance enforcement of the state's cigarette tax ~~((law))~~ and vapor product tax, ultimately saving the state money and reducing conflict. In addition, it is the intent of the legislature that the negotiations and the ensuing contracts ~~((shall))~~ have no impact on the state's share of the proceeds under the master settlement agreement entered into on November 23, 1998, by the state. Chapter 235, Laws of 2001 ~~((does))~~ and this act do not constitute a grant of taxing authority to any Indian tribe nor ~~((does it))~~ do they provide precedent for the taxation of non-Indians on fee land.

NEW SECTION. **Sec. 402.** A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into vapor product tax contracts concerning the sale of vapor products. All vapor product tax contracts must meet the requirements for vapor product tax contracts under this section.

(2) Vapor product tax contracts must be in regard to retail sales in which Indian retailers make delivery and physical transfer of possession of the vapor products from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, contracts must provide that retailers may not sell or give, or permit to be sold or given, vapor products to any person who is under the state legal age for the purchase of vapor products.

(3) A vapor product tax contract with a tribe must provide for a tribal vapor product tax in lieu of all state vapor product taxes and state and local sales and use taxes on sales of vapor products in Indian country by Indian retailers. The tribe may allow an exemption for sales to tribal members.

(4) Vapor product tax contracts must provide that retailers must purchase vapor products only from:

(a) Wholesalers or manufacturers licensed to do business in the state of Washington;

(b) Out-of-state wholesalers or manufacturers who, although not licensed to do business in the state of Washington, agree to comply with the terms of the vapor product tax contract, are certified to the state as having so agreed, and do in fact so comply.

However, the state may in its sole discretion exercise its administrative and enforcement powers over such wholesalers or manufacturers to the extent permitted by law;

(c) A tribal wholesaler that purchases only from a wholesaler or manufacturer described in (a), (b), or (d) of this subsection; and

(d) A tribal manufacturer.

(5) Vapor product tax contracts must be for renewable periods of no more than eight years.

(6) Vapor product tax contracts must include provisions for compliance, such as transport and notice requirements, inspection procedures, recordkeeping, and audit requirements.

(7) Tax revenue retained by a tribe must be used for essential government services. Use of tax revenue for subsidization of vapor products and food retailers is prohibited.

(8) The vapor product tax contract may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(9) The governor may delegate the power to negotiate vapor product tax contracts to the department of revenue. The department of revenue must consult with the liquor and cannabis board during the negotiations.

(10) Information received by the state or open to state review under the terms of a contract is subject to the provisions of RCW 82.32.330.

(11) It is the intent of the legislature that the liquor and cannabis board and the department of revenue continue the division of duties and shared authority under chapter 82.--- RCW (the new chapter created in section 507 of this act) and therefore the liquor and cannabis board is responsible for enforcement activities that come under the terms of chapter 82.--- RCW (the new chapter created in section 507 of this act).

(12) Each vapor product tax contract must include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the contract should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the contract so allow. A contract must provide for termination of the contract if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period. In addition, the contract must include provisions delineating the respective roles and responsibilities of the tribe, the department of revenue, and the liquor and cannabis board.

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

(a) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development.

(b) "Indian country" has the same meaning as provided in RCW 82.24.010.

(c) "Indian retailer" or "retailer" means:

(i) A retailer wholly owned and operated by an Indian tribe;

(ii) A business wholly owned and operated by a tribal member and licensed by the tribe; or

(iii) A business owned and operated by the Indian person or persons in whose name the land is held in trust.

(d) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(e) "Vapor products" has the same meaning as provided in section 101 of this act.

NEW SECTION. **Sec. 403.** A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor is authorized to enter into vapor product tax contracts with federally recognized Indian tribes located within the geographical boundaries of the state of Washington. Each contract adopted under this section must provide that the tribal vapor product tax rate be one hundred percent of the state vapor product tax and state and local sales and use taxes. The tribal vapor product tax is in lieu of the state vapor product tax and state and local sales and use taxes, as provided in section 402(3) of this act.

(2) A vapor product tax contract under this section is subject to section 402 of this act and is separate from a cigarette tax contract subject to RCW 43.06.455 or 43.06.466.

NEW SECTION. Sec. 404. A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into a vapor product tax agreement with the Puyallup Tribe of Indians concerning the sale of vapor products, subject to the limitations in this section. The legislature intends to address the uniqueness of the Puyallup Indian reservation and its selling environment through pricing and compliance strategies, rather than through the imposition of equivalent taxes. The governor may delegate the authority to negotiate a vapor product tax agreement with the Puyallup Tribe to the department of revenue. The department of revenue must consult with the liquor and cannabis board during the negotiations. An agreement under this section is separate from an agreement under RCW 43.06.465.

(2) Any agreement must require the tribe to impose a tribal vapor product tax with a tax rate that is ninety percent of the state vapor product tax. This tribal tax is in lieu of the combined state and local sales and use taxes and the state vapor product tax, and as such these state taxes are not imposed during the term of the agreement on any transaction governed by the agreement. The tribal vapor product tax must increase or decrease at the time of any increase or decrease in the state vapor product tax so as to remain at a level that is ninety percent of the rate of the state vapor product tax.

(3) The agreement must include a provision requiring the tribe to transmit thirty percent of the tribal tax revenue on all vapor products sales to the state. The funds must be transmitted to the state treasurer on a quarterly basis for deposit by the state treasurer into the general fund. The remaining tribal tax revenue must be used for essential government services, as that term is defined in section 402 of this act.

(4) The agreement is limited to retail sales in which Indian retailers make delivery and physical transfer of possession of the vapor products from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, agreements must provide that retailers may not sell or give, or permit to be sold or given, vapor products to any person who is under the state legal age for the purchase of vapor products.

(5)(a) The agreement must include a provision to price and sell the vapor products so that the retail selling price is not less than the price paid by the retailer for the vapor products.

(b) The tribal tax is in addition to the retail selling price.

(c) The agreement must include a provision to assure the price paid to the retailer includes the tribal tax.

(d) If the tribe is acting as a distributor to tribal retailers, the retail selling price must not be less than the price the tribe paid for such vapor products plus the tribal tax.

(6)(a) The agreement must include provisions regarding enforcement and compliance by the tribe in regard to enrolled tribal members who sell vapor products and must describe the individual and joint responsibilities of the tribe, the department of revenue, and the liquor and cannabis board.

(b) The agreement must include provisions for tax administration and compliance, such as transport and notice requirements, inspection procedures, recordkeeping, and audit requirements.

(c) The agreement must include provisions for sharing of information among the tribe, the department of revenue, and the liquor and cannabis board.

(7) The agreement must provide that retailers must purchase vapor products only from distributors or manufacturers licensed to do business in the state of Washington.

(8) The agreement must be for a renewable period of no more than eight years.

(9) The agreement must include provisions to resolve disputes using a nonjudicial process, such as mediation, and must include a dispute resolution protocol. The protocol must include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the agreement should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the agreement so allow. An agreement must provide for termination of the agreement if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period.

(10) Information received by the state or open to state review under the terms of an agreement is subject to RCW 82.32.330.

(11) It is the intent of the legislature that the liquor and cannabis board and the department of revenue continue the division of duties and shared authority under chapter 82.--- RCW (the new chapter created in section 507 of this act).

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

(a) "Indian country" has the same meaning as provided in RCW 82.24.010.

(b) "Indian retailer" or "retailer" means:

(i) A retailer wholly owned and operated by an Indian tribe; or

(ii) A business wholly owned and operated by an enrolled tribal member and licensed by the tribe.

(c) "Indian tribe" or "tribe" means the Puyallup Tribe of Indians, which is a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(d) "Vapor products" has the same meaning as provided in section 101 of this act.

NEW SECTION. Sec. 405. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of vapor products by an Indian retailer during the effective period of a vapor product tax contract subject to section 403 of this act or a vapor product tax agreement under section 404 of this act.

(2) The definitions in section 402 of this act apply to this section.

NEW SECTION. Sec. 406. A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of vapor products sold by an Indian retailer during the effective period of a vapor product tax contract subject to section 403 of this act or a vapor product tax agreement under section 404 of this act.

(2) The definitions in section 402 of this act apply to this section.

Part V Miscellaneous Provisions

NEW SECTION. Sec. 501. A new section is added to

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chapter 82.32 RCW to read as follows:

(1) By October 15, 2020, and by each October 15th thereafter, the department must estimate any increase in state general fund revenue collections for the immediately preceding fiscal year resulting from the taxes imposed in chapter . . . , Laws of 2019 (this act). The department must promptly notify the state treasurer of these estimated amounts.

(2) Beginning November 1, 2020, and by each November 1st thereafter, the state treasurer must transfer from the general fund the estimated amount determined by the department under subsection (1) of this section for the immediately preceding fiscal year as follows:

(a) Fifty percent into the Andy Hill cancer research fund created in RCW 43.348.060; and

(b) Fifty percent into the foundational public health services account created in section 103 of this act.

(3) The department may not make any adjustments to an estimate under subsection (1) of this section after the state treasurer makes the corresponding distribution under subsection (2) of this section based on the department's estimate.

NEW SECTION. Sec. 502. RCW 43.348.900 (Expiration of chapter) and 2015 3rd sp.s. c 34 s 10 are each repealed.

Sec. 503. RCW 43.348.080 and 2018 c 4 s 8 are each amended to read as follows:

(1) The Andy Hill cancer research endowment fund match transfer account is created in the custody of the ~~((state treasurer as a nonappropriated account to be used solely and exclusively for the program created in RCW 43.348.040. The purpose of the account is to provide matching funds for the fund and administrative costs. Expenditures to fund or reimburse the program administrator are not subject to the requirements of subsection (4) of this section.~~

~~(2) Revenues to the account must consist of deposits into the account, legislative appropriations, and any gifts, grants, or donations received by the department for this purpose.~~

~~(3) The legislature must appropriate a state match, up to a maximum of ten million dollars annually, beginning July 1, 2016, and each July 1st following the end of the fiscal year from tax collections and penalties generated from enforcement of state taxes on cigarettes and other tobacco products by the state liquor and cannabis board or other federal, state or local law or tax enforcement agency, as determined by the department of revenue. Tax collections include any cigarette tax, other tobacco product tax, and retail sales and use tax.~~

~~(4) Expenditures, in the form of matching funds, from the account may be made only upon receipt of proof from the program administrator of nonstate or private contributions to the fund for the program. Expenditures, in the form of matching funds, may not exceed the total amount of nonstate or private contributions.~~

~~(5) Only the director of the department or the director's designee may authorize expenditures from the Andy Hill cancer research endowment fund match transfer account. Such authorization must be made as soon as practicable following receipt of proof as required under subsection (4) of this section.~~

~~(6) The department must enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.)~~ state treasury to be used solely and exclusively for the program created in RCW 43.348.040. Moneys in the account may be spent only after appropriation. The purpose of the account is to provide matching funds for the fund and administrative costs. Expenditures to fund or reimburse the program administrator are not subject to the requirements of subsection (4) of this section.

(2) Revenues to the account must consist of deposits into the account, taxes imposed on vapor products under RCW 66.44.010 and on heated tobacco products under RCW 82.26.020, legislative appropriations, and any gifts, grants, or donations received by the department for this purpose.

(3) Each fiscal biennium, the legislature must appropriate to the department of commerce such amounts as estimated to be the balance of the account to provide state matching funds.

(4) Expenditures, in the form of matching funds, from the account may be made only upon receipt of proof from the program administrator of nonstate or private contributions to the fund for the program. Expenditures, in the form of matching funds, may not exceed the total amount of nonstate or private contributions.

(5) The department must enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.

NEW SECTION. Sec. 504. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. Sec. 505. 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. 506. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 507. Part I of this act constitutes a new chapter in Title 82 RCW.

NEW SECTION. Sec. 508. This act takes effect October 1, 2019."

On page 1, line 2 of the title, after "products;" strike the remainder of the title and insert "amending RCW 66.08.145, 66.44.010, 82.24.510, 82.24.550, 82.26.060, 82.26.080, 82.26.150, 82.26.220, 82.32.300, 70.345.010, 70.345.030, 70.345.090, 82.24.010, 82.26.020, 43.06.450, and 43.348.080; reenacting and amending RCW 82.26.010; adding new sections to chapter 43.06 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 82 RCW; creating new sections; repealing RCW 43.348.900; prescribing penalties; and providing an effective date."

The President declared the question before the Senate to be the motion to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1873.

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

MOTION

Senator Braun moved that the following amendment no. 902 by Senators Braun and Kuderer be adopted:

Strike everything after the enacting clause and insert the following:"

Part I
Tax on Vapor Products

NEW SECTION. Sec. 101. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accessible container" means a container that is intended to be opened. The term does not mean a closed cartridge or closed container that is not intended to be opened such as a disposable e-cigarette.

(2) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(3) "Board" means the Washington state liquor and cannabis board.

(4) "Business" means any trade, occupation, activity, or enterprise engaged in selling or distributing vapor products in this state.

(5) "Distributor" mean any person:

(a) Engaged in the business of selling vapor products in this state who brings, or causes to be brought, into this state from outside the state any vapor products for sale;

(b) Who makes, manufactures, fabricates, or stores vapor products in this state for sale in this state;

(c) Engaged in the business of selling vapor products outside this state who ships or transports vapor products to retailers or consumers in this state; or

(d) Engaged in the business of selling vapor products in this state who handles for sale any vapor products that are within this state but upon which tax has not been imposed.

(6) "Indian country" has the same meaning as provided in RCW 82.24.010.

(7) "Manufacturer" has the same meaning as provided in RCW 70.345.010.

(8) "Manufacturer's representative" means a person hired by a manufacturer to sell or distribute the manufacturer's vapor products and includes employees and independent contractors.

(9) "Person" means: Any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, limited liability company, association, or society; the state and its departments and institutions; any political subdivision of the state of Washington; and any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. Except as provided otherwise in this chapter, "person" does not include any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(10) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, or train.

(11) "Retail outlet" has the same meaning as provided in RCW 70.345.010.

(12) "Retailer" has the same meaning as provided in RCW 70.345.010.

(13) "Sale" has the same meaning as provided in RCW 70.345.010.

(14) "Taxpayer" means a person liable for the tax imposed by this chapter.

(15) "Vapor product" means any noncombustible product containing a solution or other consumable substance, regardless of whether it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of shape

or size that can be used to produce vapor from the solution or other substance, including an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term also includes any cartridge or other container of liquid nicotine, solution, or other consumable substance, regardless of whether it contains nicotine, that is intended to be used with or in a device that can be used to deliver aerosolized or vaporized nicotine to a person inhaling from the device and is sold for such purpose.

(a) The term does not include:

(i) Any product approved by the United States food and drug administration for sale as a tobacco cessation product, medical device, or for other therapeutic purposes when such product is marketed and sold solely for such an approved purpose;

(ii) Any product that will become an ingredient or component in a vapor product manufactured by a distributor; or

(iii) Any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.

(b) For purposes of this subsection (15):

(i) "Cigarette" has the same meaning as provided in RCW 82.24.010; and

(ii) "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as provided in RCW 69.50.101.

NEW SECTION. Sec. 102. (1)(a) There is levied and collected a tax upon the sale, use, consumption, handling, possession, or distribution of all vapor products in this state as follows:

(i) All vapor products other than those taxed under (a)(ii) of this subsection are taxed at a rate equal to twenty-seven cents per milliliter of solution, regardless of whether it contains nicotine, and a proportionate tax at the like rate on all fractional parts of a milliliter thereof.

(ii) Any accessible container of solution, regardless of whether it contains nicotine, that is greater than five milliliters, is taxed at a rate equal to nine cents per milliliter of solution and a proportionate tax at the like rate on all fractional parts of a milliliter thereof.

(b) The tax in this section must be imposed based on the volume of the solution as listed by the manufacturer.

(2)(a) The tax under this section must be collected at the time the distributor: (i) Brings, or causes to be brought, into this state from without the state vapor products for sale; (ii) makes, manufactures, fabricates, or stores vapor products in this state for sale in this state; (iii) ships or transports vapor products to retailers or consumers in this state; or (iv) handles for sale any vapor products that are within this state but upon which tax has not been imposed.

(b) The tax imposed under this section must also be collected by the department from the consumer of vapor products where the tax imposed under this section was not paid by the distributor on such vapor products.

(3)(a) The moneys collected under this section must be deposited as follows:

(i) Fifty percent into the Andy Hill cancer research endowment fund match transfer account created in RCW 43.348.080; and

(ii) Fifty percent into the foundational public health services account created in section 103 of this act.

(b) The funding provided under this subsection is intended to supplement and not supplant general fund investments in cancer research and foundational public health services.

NEW SECTION. Sec. 103. The foundational public health services account is created in the state treasury. Half of all of the

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moneys collected from the tax imposed on vapor products under RCW 66.44.010 must be deposited into the account. Moneys in the account may be spent only after appropriation. Moneys in the account are to be used for the following purposes:

(1) To fund foundational health services. In the 2019-2021 biennium, at least twelve million dollars of the funds deposited into the account must be appropriated for this purpose. Beginning in the 2021-2023 biennium, fifty percent of the funds deposited into the account, but not less than twelve million dollars each biennium, are to be used for this purpose;

(2) To fund tobacco, vapor product, and nicotine control and prevention, and other substance use prevention and education. Beginning in the 2021-2023 biennium, seventeen percent of the funds deposited into the account are to be used for this purpose;

(3) To support increased access and training of public health professionals at public health programs at accredited public institutions of higher education in Washington. Beginning in the 2021-2023 biennium, five percent of the funds deposited into the account are to be used for this purpose;

(4) To fund enforcement by the state liquor and cannabis board of the provisions of this chapter to prevent sales of vapor products to minors and related provisions for control of marketing and product safety, provided that no more than eight percent of the funds deposited into the account may be appropriated for these enforcement purposes.

NEW SECTION. Sec. 104. It is the intent and purpose of this chapter to levy a tax on all vapor products sold, used, consumed, handled, possessed, or distributed within this state. It is the further intent and purpose of this chapter to impose the tax only once on all vapor products in this state. Nothing in this chapter may be construed to exempt any person taxable under any other law or under any other tax imposed under this title.

NEW SECTION. Sec. 105. The tax imposed by section 102 of this act does not apply with respect to any vapor products which under the Constitution and laws of the United States may not be made the subject of taxation by this state.

NEW SECTION. Sec. 106. (1) Every distributor must keep at each place of business complete and accurate records for that place of business, including itemized invoices, of vapor products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of vapor products made.

(2) These records must show the names and addresses of purchasers, the inventory of all vapor products, and other pertinent papers and documents relating to the purchase, sale, or disposition of vapor products. All invoices and other records required by this section to be kept must be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this chapter, and the vapor products contained therein, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees are denied free access or are hindered or interfered with in making such examination, the registration certificate issued under RCW 82.32.030 of the distributor at such premises are subject to revocation by the department, and any licenses issued under chapter 70.345, 82.26, or 82.24 RCW are subject to suspension or revocation by the board.

NEW SECTION. Sec. 107. Every person required to be

licensed under chapter 70.345 RCW who sells vapor products to persons other than the ultimate consumer must render with each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices. The person must preserve legible copies of all such invoices for five years from the date of sale.

NEW SECTION. Sec. 108. (1) Every retailer must procure itemized invoices of all vapor products purchased. The invoices must show the seller's name and address, the date of purchase, and all prices and discounts.

(2) The retailer must keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept under this section must be preserved for five years from the date of purchase.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any retail outlet without a search warrant, and inspect the premises for invoices required to be kept under this section and the vapor products contained in the retail outlet, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees are denied free access or are hindered or interfered with in making the inspection, the registration certificate issued under RCW 82.32.030 of the retailer at the premises is subject to revocation by the department, and any licenses issued under chapter 70.345, 82.26, or 82.24 RCW are subject to suspension or revocation by the board.

NEW SECTION. Sec. 109. (1)(a) Where vapor products upon which the tax imposed by this chapter has been reported and paid are shipped or transported outside this state by the distributor to a person engaged in the business of selling vapor products, to be sold by that person, or are returned to the manufacturer by the distributor or destroyed by the distributor, or are sold by the distributor to the United States or any of its agencies or instrumentalities, or are sold by the distributor to any Indian tribal organization, credit of such tax may be made to the distributor in accordance with rules prescribed by the department.

(b) For purposes of this subsection (1), the following definitions apply:

(i) "Indian distributor" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "distributor" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(ii) "Indian retailer" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "retailer" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(iii) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(2) Credit allowed under this section must be determined based on the tax rate in effect for the period for which the tax imposed by this chapter, for which a credit is sought, was paid.

NEW SECTION. Sec. 110. All of the provisions contained in chapter 82.32 RCW not inconsistent with the provisions of this chapter have full force and application with respect to taxes imposed under the provisions of this chapter.

NEW SECTION. Sec. 111. The department must authorize, as duly authorized agents, enforcement officers of the board to

enforce provisions of this chapter. These officers are not employees of the department.

NEW SECTION. Sec. 112. (1) The department may by rule establish the invoice detail required under section 106 of this act for a distributor and for those invoices required to be provided to retailers under section 108 of this act.

(2) If a retailer fails to keep invoices as required under section 108 of this act, the retailer is liable for the tax owed on any uninvoiced vapor products but not penalties and interest, except as provided in subsection (3) of this section.

(3) If the department finds that the nonpayment of tax by the retailer was willful or if in the case of a second or plural nonpayment of tax by the retailer, penalties and interest must be assessed in accordance with chapter 82.32 RCW.

NEW SECTION. Sec. 113. (1) No person may transport or cause to be transported in this state vapor products for sale other than: (a) A licensed distributor under chapter 70.345 RCW, or a manufacturer's representative authorized to sell or distribute vapor products in this state under chapter 70.345 RCW; (b) a licensed retailer under chapter 70.345 RCW; (c) a seller with a valid delivery sale license under chapter 70.345 RCW; or (d) a person who has given notice to the board in advance of the commencement of transportation.

(2) When transporting vapor products for sale, the person must have in his or her actual possession, or cause to have in the actual possession of those persons transporting such vapor products on his or her behalf, invoices or delivery tickets for the vapor products, which must show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the vapor products being transported.

(3) In any case where the department or the board, or any peace officer of the state, has knowledge or reasonable grounds to believe that any vehicle is transporting vapor products in violation of this section, the department, board, or peace officer is authorized to stop the vehicle and to inspect it for contraband vapor products.

(4) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 114. The board must compile and maintain a current record of the names of all distributors, retailers, and delivery sales licenses under chapter 70.345 RCW and the status of their license or licenses. The information must be updated on a monthly basis and published on the board's official internet web site. This information is not subject to the confidentiality provisions of RCW 82.32.330 and must be disclosed to manufacturers, distributors, retailers, and the general public upon request.

NEW SECTION. Sec. 115. (1) No person engaged in or conducting business as a distributor or retailer in this state may:

(a) Make, use, or present or exhibit to the department or the board any invoice for any of the vapor products taxed under this chapter that bears an untrue date or falsely states the nature or quantity of the goods invoiced; or

(b) Fail to produce on demand of the department or the board all invoices of all the vapor products taxed under this chapter within five years prior to such demand unless the person can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond the person's control.

(2)(a) No person, other than a licensed distributor, retailer or delivery sales licensee, or manufacturer's representative, may transport vapor products for sale in this state for which the taxes

imposed under this chapter have not been paid unless:

(i) Notice of the transportation has been given as required under section 113 of this act;

(ii) The person transporting the vapor products actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of vapor products being transported; and

(iii) The vapor products are consigned to or purchased by a person in this state who is licensed under chapter 70.345 RCW.

(b) A violation of this subsection (2) is a gross misdemeanor.

(3) Any person licensed under chapter 70.345 RCW as a distributor, and any person licensed under chapter 70.345 RCW as a retailer, may not operate in any other capacity unless the additional appropriate license is first secured, except as otherwise provided by law. A violation of this subsection (3) is a misdemeanor.

(4) The penalties provided in this section are in addition to any other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter.

(5) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 116. (1) A retailer that obtains vapor products from an unlicensed distributor or any other person that is not licensed under chapter 70.345 RCW must be licensed both as a retailer and a distributor and is liable for the tax imposed under section 102 of this act with respect to the vapor products acquired from the unlicensed person that are held for sale, handling, or distribution in this state. For the purposes of this subsection, "person" includes both persons defined in this act and any person immune from state taxation, such as the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(2) Every distributor licensed under chapter 70.345 RCW may sell vapor products to retailers located in Washington only if the retailer has a current retailer's license under chapter 70.345 RCW.

NEW SECTION. Sec. 117. A manufacturer that has manufacturer's representatives who sell or distribute the manufacturer's vapor products in this state must provide the board a list of the names and addresses of all such representatives and must ensure that the list provided to the board is kept current. A manufacturer's representative is not authorized to distribute or sell vapor products in this state unless the manufacturer that hired the representative has a valid distributor's license under chapter 70.345 RCW and that manufacturer provides the board a current list of all of its manufacturer's representatives as required by this section. A manufacturer's representative must carry a copy of the distributor's license of the manufacturer that hired the representative at all times when selling or distributing the manufacturer's vapor products.

NEW SECTION. Sec. 118. (1) Any vapor products in the possession of a person selling vapor products in this state acting as a distributor or retailer and who is not licensed as required under chapter 70.345 RCW, or a person who is selling vapor products in violation of RCW 82.24.550(6), may be seized without a warrant by any agent of the department, agent of the board, or law enforcement officer of this state. Any vapor products seized under this subsection are deemed forfeited.

(2) Any vapor products in the possession of a person who is not a licensed distributor, delivery seller, manufacturer's representative, or retailer and who transports vapor products for sale without having provided notice to the board required under

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section 113 of this act, or without invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of vapor products being transported may be seized and are subject to forfeiture.

(3) All conveyances, including aircraft, vehicles, or vessels that are used, or intended for use to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of vapor products under subsection (2) of this section, may be seized and are subject to forfeiture except:

(a) A conveyance used by any person as a common or contract carrier having in actual possession invoices or delivery tickets showing the true name and address of the consignor or seller, the true name of the consignee or purchaser, and the quantity and brands of the vapor products transported, unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) A conveyance subject to forfeiture under this section by reason of any act or omission of which the owner establishes to have been committed or omitted without his or her knowledge or consent; or

(c) A conveyance encumbered by a bona fide security interest if the secured party neither had knowledge of nor consented to the act or omission.

(4) Property subject to forfeiture under subsections (2) and (3) of this section may be seized by any agent of the department, the board, or law enforcement officer of this state upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search warrant or an inspection under an administrative inspection warrant; or

(b) The department, board, or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

(5) This section may not be construed to require the seizure of vapor products if the department's agent, board's agent, or law enforcement officer reasonably believes that the vapor products are possessed for personal consumption by the person in possession of the vapor products.

(6) Any vapor products seized by a law enforcement officer must be turned over to the board as soon as practicable.

(7) This section does not apply to a motor carrier or freight forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier as defined in Title 49 U.S.C. Sec. 40102.

NEW SECTION. Sec. 119. (1) In all cases of seizure of any vapor products made subject to forfeiture under this chapter, the department or board must proceed as provided in RCW 82.24.135.

(2) When vapor products are forfeited under this chapter, the department or board may:

(a) Retain the property for official use or upon application by any law enforcement agency of this state, another state, or the District of Columbia, or of the United States for the exclusive use of enforcing this chapter or the laws of any other state or the District of Columbia or of the United States; or

(b) Sell the vapor products at public auction to the highest bidder after due advertisement. Before delivering any of the goods to the successful bidder, the department or board must require the purchaser to pay the proper amount of any tax due. The proceeds of the sale must be first applied to the payment of all proper expenses of any investigation leading to the seizure and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. The balance of the proceeds and all money must be deposited in the

general fund of the state. Proper expenses of investigation include costs incurred by any law enforcement agency or any federal, state, or local agency.

(3) The department or the board may return any property seized under the provisions of this chapter when it is shown that there was no intention to violate the provisions of this chapter. When any property is returned under this section, the department or the board may return the property to the parties from whom they were seized if and when such parties have paid the proper amount of tax due under this chapter.

NEW SECTION. Sec. 120. When the department or the board has good reason to believe that any of the vapor products taxed under this chapter are being kept, sold, offered for sale, or given away in violation of the provisions of this chapter, it may make affidavit of facts describing the place or thing to be searched, before any judge of any court in this state, and the judge must issue a search warrant directed to the sheriff, any deputy, police officer, or duly authorized agent of the department or the board commanding him or her diligently to search any building, room in a building, place, or vehicle as may be designated in the affidavit and search warrant, and to seize the vapor products and hold them until disposed of by law.

NEW SECTION. Sec. 121. (1)(a) Where vapor products upon which the tax imposed by this chapter has been reported and paid are shipped or transported outside this state by the distributor to a person engaged in the business of selling vapor products, to be sold by that person, or are returned to the manufacturer by the distributor or destroyed by the distributor, or are sold by the distributor to the United States or any of its agencies or instrumentalities, or are sold by the distributor to any Indian tribal organization, credit of such tax may be made to the distributor in accordance with rules prescribed by the department.

(b) For purposes of this subsection (1), the following definitions apply:

(i) "Indian distributor" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "distributor" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(ii) "Indian retailer" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of "retailer" under section 101 of this act, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in section 101 of this act.

(iii) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(2) Credit allowed under this section must be determined based on the tax rate in effect for the period for which the tax imposed by this chapter, for which a credit is sought, was paid.

NEW SECTION. Sec. 122. (1) Preexisting inventories of vapor products are subject to the tax imposed in section 102 of this act. All retailers and other distributors must report the tax due under section 102 of this act on preexisting inventories of vapor products on a form, as prescribed by the department, on or before October 31, 2019, and the tax due on such preexisting inventories must be paid on or before January 31, 2020.

(2) Reports under subsection (1) of this section not filed with the department by October 31, 2019, are subject to a late filing penalty equal to the greater of two hundred fifty dollars or ten percent of the tax due under section 102 of this act on the taxpayer's preexisting inventories.

(3) The department must notify the taxpayer of the amount of tax due under section 102 of this act on preexisting inventories, which is subject to applicable penalties under RCW 82.32.090 (2) through (7) if unpaid after January 31, 2020. Amounts due in accordance with this section are not considered to be substantially underpaid for the purposes of RCW 82.32.090(2).

(4) Interest, at the rate provided in RCW 82.32.050(2), must be computed daily beginning February 1, 2020, on any remaining tax due under section 102 of this act on preexisting inventories until paid.

(5) A retailer required to comply with subsection (1) of this section is not required to obtain a distributor license as otherwise required under chapter 70.345 RCW as long as the retailer:

(a) Does not sell vapor products other than to ultimate consumers; and

(b) Does not meet the definition of "distributor" in section 101 of this act other than with respect to the sale of that retailer's preexisting inventory of vapor products.

(6) Taxes may not be collected under section 102 of this act from consumers with respect to any vapor products acquired before the effective date of this section.

(7) For purposes of this section, "preexisting inventory" means an inventory of vapor products located in this state as of the moment that section 102 of this act takes effect and held by a distributor for sale, handling, or distribution in this state.

Part II Conforming Amendments

Sec. 201. RCW 66.08.145 and 2016 sp.s. c 38 s 29 are each amended to read as follows:

(1) The liquor and cannabis board may issue subpoenas in connection with any investigation, hearing, or proceeding for the production of books, records, and documents held under this chapter or chapters 70.155, 70.158, 70.345, 82.24, ~~((and))~~ 82.26 ~~((RCW))~~, and 82.--- RCW (the new chapter created in section 408 of this act), and books and records of common carriers as defined in RCW 81.80.010, or vehicle rental agencies relating to the transportation or possession of cigarettes, vapor products, or other tobacco products.

(2) The liquor and cannabis board may designate individuals authorized to sign subpoenas.

(3) If any person is served a subpoena from the board for the production of records, documents, and books, and fails or refuses to obey the subpoena for the production of records, documents, and books when required to do so, the person is subject to proceedings for contempt, and the board may institute contempt of court proceedings in the superior court of Thurston county or in the county in which the person resides.

Sec. 202. RCW 66.44.010 and 1998 c 18 s 1 are each amended to read as follows:

(1) All county and municipal peace officers are hereby charged with the duty of investigating and prosecuting all violations of this title, and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and all fines imposed for violations of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor ~~((shall))~~ belong to the county, city or town wherein the court imposing the fine is located, and ~~((shall))~~ must be placed in the general fund for payment of the salaries of those engaged in the enforcement of the provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor ~~(= PROVIDED, That))~~. However, all fees, fines, forfeitures and penalties collected or assessed by a district court because of the

violation of a state law ~~((shall))~~ must be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

(2) In addition to any and all other powers granted, the board ~~((shall have))~~ has the power to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor.

(3) In addition to the other duties under this section, the board ~~((shall))~~ must enforce chapters 82.24 ~~((and))~~, 82.26 ~~((RCW))~~, and 82.--- RCW (the new chapter created in section 408 of this act).

(4) The board may appoint and employ, assign to duty and fix the compensation of, officers to be designated as liquor enforcement officers. Such liquor enforcement officers ~~((shall))~~ have the power, under the supervision of the board, to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor. They ~~((shall))~~ have the power and authority to serve and execute all warrants and process of law issued by the courts in enforcing the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 ~~((and))~~, 82.26 ~~((RCW))~~, and 82.--- RCW (the new chapter created in section 408 of this act). They ~~((shall))~~ have the power to arrest without a warrant any person or persons found in the act of violating any of the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 ~~((and))~~, 82.26 ~~((RCW))~~, and 82.--- RCW (the new chapter created in section 408 of this act).

Sec. 203. RCW 82.24.510 and 2013 c 144 s 50 are each amended to read as follows:

(1) The licenses issuable under this chapter are as follows:

(a) A wholesaler's license.

(b) A retailer's license.

(2) Application for the licenses must be made through the business licensing system under chapter 19.02 RCW. The board must adopt rules regarding the regulation of the licenses. The board may refrain from the issuance of any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a wholesaler's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider any prior criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board may, in its discretion, grant or refuse the wholesaler's license or retailer's license, subject to the provisions of RCW 82.24.550.

(3) No person may qualify for a wholesaler's license or a retailer's license under this section without first undergoing a criminal background check. The background check must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. A person who possesses a valid license on July 22, 2001, is subject to this subsection and subsection (2) of this section beginning on the date of the person's business license expiration under chapter

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19.02 RCW, and thereafter. If the applicant or licensee also has a license issued under chapter 66.24 ~~((or))~~, 82.26, or 70.345 RCW, the background check done under the authority of chapter 66.24 ~~((or))~~, 82.26, or 70.345 RCW satisfies the requirements of this section.

(4) Each such license expires on the business license expiration date, and each such license must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board made pursuant thereto.

(5) Each license and any other evidence of the license that the board requires must be exhibited in each place of business for which it is issued and in the manner required for the display of a business license.

Sec. 204. RCW 82.24.550 and 2015 c 86 s 307 are each amended to read as follows:

(1) The board must enforce the provisions of this chapter. The board may adopt, amend, and repeal rules necessary to enforce the provisions of this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer the provisions of this chapter. The board may revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee to comply with any of the provisions of this chapter.

(3) A license may not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or any rule adopted under this chapter, must, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and, in the case of a second or further offense, must suspend the license or licenses for a period of not less than ninety consecutive business days nor more than twelve months, and, in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.26 or 70.345 RCW to a person whose license or licenses have been suspended or revoked under this section must also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year from the date of revocation of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under this chapter.

(6) A person whose license has been suspended or revoked may not sell cigarettes, vapor products, or tobacco products or permit cigarettes, vapor products, or tobacco products to be sold during the period of such suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form whatever.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal to the superior court of Thurston county. The superior court must review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34

RCW.

(9) For purposes of this section ~~((;))~~:

(a) "Tobacco products" has the same meaning as provided in RCW 82.26.010; and

(b) "Vapor products" has the same meaning as provided in section 101 of this act.

Sec. 205. RCW 82.26.060 and 2009 c 154 s 3 are each amended to read as follows:

(1) Every distributor ~~((shall))~~ must keep at each place of business complete and accurate records for that place of business, including itemized invoices, of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of tobacco products made.

(2) These records ~~((shall))~~ must show the names and addresses of purchasers, the inventory of all tobacco products, and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products. All invoices and other records required by this section to be kept ~~((shall))~~ must be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees, may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this chapter, and the tobacco products contained therein, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees, are denied free access or are hindered or interfered with in making such examination, the registration certificate issued under RCW 82.32.030 of the distributor at such premises ~~((shall be))~~ is subject to revocation, and any licenses issued under this chapter or chapter 82.24 or 70.345 RCW are subject to suspension or revocation, by the department or board.

Sec. 206. RCW 82.26.080 and 2005 c 180 s 5 are each amended to read as follows:

(1) Every retailer ~~((shall))~~ must procure itemized invoices of all tobacco products purchased. The invoices ~~((shall))~~ must show the seller's name and address, the date of purchase, and all prices and discounts.

(2) The retailer ~~((shall))~~ must keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept under this section ~~((shall))~~ must be preserved for five years from the date of purchase.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any retail outlet without a search warrant, and inspect the premises for invoices required to be kept under this section and the tobacco products contained in the retail outlet, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees, are denied free access or are hindered or interfered with in making the inspection, the registration certificate issued under RCW 82.32.030 of the retailer at the premises is subject to revocation, and any licenses issued under this chapter or chapter 82.24 or 70.345 RCW are subject to suspension or revocation by the department.

Sec. 207. RCW 82.26.150 and 2013 c 144 s 52 are each amended to read as follows:

(1) The licenses issuable by the board under this chapter are as follows:

(a) A distributor's license; and

(b) A retailer's license.

(2) Application for the licenses must be made through the business licensing system under chapter 19.02 RCW. The board may adopt rules regarding the regulation of the licenses. The board may refuse to issue any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a distributor's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board may, in its discretion, issue or refuse to issue the distributor's license or retailer's license, subject to the provisions of RCW 82.26.220.

(3) No person may qualify for a distributor's license or a retailer's license under this section without first undergoing a criminal background check. The background check must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. If the applicant or licensee also has a license issued under chapter 66.24 ~~((or))~~, 82.24, or 70.345 RCW, the background check done under the authority of chapter 66.24, 70.345, or 82.24 RCW satisfies the requirements of this section.

(4) Each license issued under this chapter expires on the business license expiration date. The license must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board adopted pursuant to this chapter.

(5) Each license and any other evidence of the license required under this chapter must be exhibited in each place of business for which it is issued and in the manner required for the display of a business license.

Sec. 208. RCW 82.26.220 and 2015 c 86 s 308 are each amended to read as follows:

(1) The board must enforce this chapter. The board may adopt, amend, and repeal rules necessary to enforce this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer this chapter. The board may revoke or suspend the distributor's or retailer's license of any distributor or retailer of tobacco products in the state upon sufficient cause showing a violation of this chapter or upon the failure of the licensee to comply with any of the rules adopted under it.

(3) A license may not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or of any rule adopted under it, must, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and in the case of a second or further offense, suspend the license or licenses for a period of not less than ninety consecutive business days but not more than twelve months, and in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.24 or 70.345 RCW to a person whose license or licenses have been suspended or revoked under this section must also be suspended or revoked

during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under it.

(6) A person whose license has been suspended or revoked may not sell tobacco products, vapor products, or cigarettes or permit tobacco products, vapor products, or cigarettes to be sold during the period of suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal to the superior court of Thurston county. The superior court must review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW.

Sec. 209. RCW 82.32.300 and 1997 c 420 s 9 are each amended to read as follows:

(1) The administration of this and chapters 82.04 through 82.27 RCW of this title is vested in the department ~~((of revenue which shall))~~, which must prescribe forms and rules of procedure for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed thereunder.

(2) The department ~~((of revenue shall))~~ must make and publish rules and regulations, not inconsistent therewith, necessary to enforce provisions of this chapter and chapters 82.02 through 82.23B and 82.27 RCW, and the liquor ~~((control))~~ and cannabis board ~~((shall))~~ must make and publish rules necessary to enforce chapters 82.24 ~~((and))~~, 82.26 ~~((RCW))~~, and 82.--- RCW (the new chapter created in section 408 of this act), which ~~((shall have))~~ has the same force and effect as if specifically included therein, unless declared invalid by the judgment of a court of record not appealed from.

(3) The department may employ such clerks, specialists, and other assistants as are necessary. Salaries and compensation of such employees ~~((shall))~~ must be fixed by the department and ~~((shall be))~~ charged to the proper appropriation for the department.

(4) The department ~~((shall))~~ must exercise general supervision of the collection of taxes and, in the discharge of such duty, may institute and prosecute such suits or proceedings in the courts as may be necessary and proper.

Sec. 210. RCW 70.345.010 and 2016 sp.s. c 38 s 4 are each amended to read as follows:

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

(1) "Board" means the Washington state liquor and cannabis board.

(2) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing vapor products in this state.

(3) "Child care facility" has the same meaning as provided in RCW 70.140.020.

(4) "Closed system nicotine container" means a sealed,

prefilled, and disposable container of nicotine in a solution or other form in which such container is inserted directly into an electronic cigarette, electronic nicotine delivery system, or other similar product, if the nicotine in the container is inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

(5) "Delivery sale" means any sale of a vapor product to a purchaser in this state where either:

(a) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the internet or other online service; or

(b) The vapor product is delivered by use of the mails or of a delivery service. The foregoing sales of vapor products constitute a delivery sale regardless of whether the seller is located within or without this state. "Delivery sale" does not include a sale of any vapor product not for personal consumption to a retailer.

(6) "Delivery seller" means a person who makes delivery sales.

(7) "Distributor" (~~means any person who:~~

~~(a) Sells vapor products to persons other than ultimate consumers; or~~

~~(b) Is engaged in the business of selling vapor products in this state and who brings, or causes to be brought, into this state from outside of the state any vapor products for sale)) has the same meaning as in section 101 of this act.~~

(8) "Liquid nicotine container" means a package from which nicotine in a solution or other form is accessible through normal and foreseeable use by a consumer and that is used to hold soluble nicotine in any concentration. "Liquid nicotine container" does not include closed system nicotine containers.

(9) "Manufacturer" means a person who manufactures and sells vapor products.

(10) "Minor" refers to an individual who is less than eighteen years old.

(11) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(12) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale.

(13) "Playground" means any public improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, including but not limited to any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

(14) "Retail outlet" means each place of business from which vapor products are sold to consumers.

(15) "Retailer" means any person engaged in the business of selling vapor products to ultimate consumers.

(16)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling vapor products, for advertising, promoting, or as a means of evading the provisions of this chapter.

(17) "School" has the same meaning as provided in RCW 70.140.020.

(18) "Self-service display" means a display that contains vapor

products and is located in an area that is openly accessible to customers and from which customers can readily access such products without the assistance of a salesperson. A display case that holds vapor products behind locked doors does not constitute a self-service display.

(19) "Vapor product" means any noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance.

(a) "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(b) "Vapor product" does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.

(c) For purposes of this subsection (19), "marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as provided in RCW 69.50.101.

Sec. 211. RCW 70.345.030 and 2016 sp.s. c 38 s 6 are each amended to read as follows:

(1)(a) No person may engage in or conduct business as a retailer, distributor, or delivery seller in this state without a valid license issued under this chapter, except as otherwise provided by law. Any person who sells vapor products to ultimate consumers by a means other than delivery sales must obtain a retailer's license under this chapter. Any person who (~~sells vapor products to persons other than ultimate consumers or who~~) meets the definition of distributor under this chapter must obtain a distributor's license under this chapter. Any person who conducts delivery sales of vapor products must obtain a delivery sale license.

(b) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW.

(2) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may refuse to allow the enforcement officers of the board, on demand, to make full inspection of any place of business or vehicle where any of the vapor products regulated under this chapter are sold, stored, transported, or handled, or otherwise hinder or prevent such inspection. A person who violates this subsection is guilty of a gross misdemeanor.

(3) Any person licensed under this chapter as a distributor, any person licensed under this chapter as a retailer, and any person licensed under this chapter as a delivery seller may not operate in any other capacity unless the additional appropriate license is first secured, except as otherwise provided by law. A violation of this subsection is a misdemeanor.

(4) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may sell or give, or permit to sell or give, a product that contains any amount of any cannabinoid, synthetic cannabinoid, cathinone, or methcathinone, unless otherwise provided by law. A violation of this subsection (4) is punishable according to RCW 69.50.401.

(5) The penalties provided in this section are in addition to any other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter.

Sec. 212. RCW 70.345.090 and 2016 sp.s. c 38 s 17 are each amended to read as follows:

(1) No person may conduct a delivery sale or otherwise ship or

transport, or cause to be shipped or transported, any vapor product ordered or purchased by mail or through the internet to any person unless such seller has a valid delivery sale license as required under this chapter.

(2) No person may conduct a delivery sale or otherwise ship or transport, or cause to be shipped or transported, any vapor product ordered or purchased by mail or through the internet to any person under the minimum age required for the legal sale of vapor products as provided under RCW 70.345.140.

(3) A delivery sale licensee must provide notice on its mail order or internet sales forms of the minimum age required for the legal sale of vapor products in Washington state as provided by RCW 70.345.140.

(4) A delivery sale licensee must not accept a purchase or order from any person without first obtaining the full name, birth date, and residential address of that person and verifying this information through an independently operated third-party database or aggregate of databases, which includes data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication.

(5) A delivery sale licensee must accept payment only through a credit or debit card issued in the purchaser's own name. The licensee must verify that the card is issued to the same person identified through identity and age verification procedures in subsection (4) of this section.

(6) Before a delivery sale licensee delivers an initial purchase to any person, the licensee must verify the identity and delivery address of the purchaser by mailing or shipping to the purchaser a notice of sale and certification form confirming that the addressee is in fact the person placing the order. The purchaser must return the signed certification form to the licensee before the initial shipment of product. Certification forms are not required for repeat customers. In the alternative, before a seller delivers an initial purchase to any person, the seller must first obtain from the prospective customer an electronic certification, such as by email, that includes a declaration that, at a minimum, the prospective customer is over the minimum age required for the legal sale of a vapor product, and the credit or debit card used for payment has been issued in the purchaser's name.

(7) A delivery sale licensee must include on shipping documents a clear and conspicuous statement which includes, at a minimum, that the package contains vapor products, Washington law prohibits sales to those under the minimum age established by this chapter, and violations may result in sanctions to both the licensee and the purchaser.

(8) For purposes of this subsection (8), "vapor products" has the same meaning as provided in section 101 of this act.

(9) A person who knowingly violates this section is guilty of a class C felony, except that the maximum fine that may be imposed is five thousand dollars.

~~((9))~~ (10) In addition to or in lieu of any other civil or criminal remedy provided by law, a person who has violated this section is subject to a civil penalty of up to five thousand dollars for each violation. The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court.

~~((40))~~ (11) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of this section and to compel compliance with this section.

~~((44))~~ (12) Any violation of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for violation of this section lies solely with the attorney

general. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

~~((42))~~ (13)(a) In any action brought under this section, the state is entitled to recover, in addition to other relief, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

(b) If a court determines that a person has violated this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the general fund.

~~((43))~~ (14) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this state.

~~((44))~~ (15) A licensee who violates this section is subject to license suspension or revocation by the board.

~~((45))~~ (16) The board may adopt by rule additional requirements for mail or internet sales.

~~((46))~~ (17) The board must not adopt rules prohibiting internet sales.

Part III Tribal Compacting

Sec. 301. RCW 43.06.450 and 2001 c 235 s 1 are each amended to read as follows:

The legislature intends to further the government-to-government relationship between the state of Washington and Indians in the state of Washington by authorizing the governor to enter into contracts concerning the sale of cigarettes and vapor products. The legislature finds that these cigarette tax and vapor product tax contracts will provide a means to promote economic development, provide needed revenues for tribal governments and Indian persons, and enhance enforcement of the state's cigarette tax ~~(law)~~ and vapor product tax, ultimately saving the state money and reducing conflict. In addition, it is the intent of the legislature that the negotiations and the ensuing contracts ~~(shall)~~ have no impact on the state's share of the proceeds under the master settlement agreement entered into on November 23, 1998, by the state. Chapter 235, Laws of 2001 ~~(does)~~ and this act do not constitute a grant of taxing authority to any Indian tribe nor ~~(does it)~~ do they provide precedent for the taxation of non-Indians on fee land.

NEW SECTION. Sec. 302. A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into vapor product tax contracts concerning the sale of vapor products. All vapor product tax contracts must meet the requirements for vapor product tax contracts under this section.

(2) Vapor product tax contracts must be in regard to retail sales in which Indian retailers make delivery and physical transfer of possession of the vapor products from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, contracts may address the legal age of sale for vapor products pursuant to section 11, chapter 15, Laws of 2019.

(3) A vapor product tax contract with a tribe must provide for a tribal vapor product tax in lieu of all state vapor product taxes and state and local sales and use taxes on sales of vapor products in Indian country by Indian retailers. The tribe may allow an exemption for sales to tribal members.

(4) Vapor product tax contracts must provide that retailers must purchase vapor products only from:

(a) Wholesalers or manufacturers licensed to do business in the state of Washington;

(b) Out-of-state wholesalers or manufacturers who, although not licensed to do business in the state of Washington, agree to

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comply with the terms of the vapor product tax contract, are certified to the state as having so agreed, and do in fact so comply. However, the state may in its sole discretion exercise its administrative and enforcement powers over such wholesalers or manufacturers to the extent permitted by law;

(c) A tribal wholesaler that purchases only from a wholesaler or manufacturer described in (a), (b), or (d) of this subsection; and
(d) A tribal manufacturer.

(5) Vapor product tax contracts must be for renewable periods of no more than eight years.

(6) Vapor product tax contracts must include provisions for compliance, such as transport and notice requirements, inspection procedures, recordkeeping, and audit requirements.

(7) Tax revenue retained by a tribe must be used for essential government services. Use of tax revenue for subsidization of vapor products and food retailers is prohibited.

(8) The vapor product tax contract may include provisions to resolve disputes a nonjudicial process, such as mediation.

(9) The governor may delegate the power to negotiate vapor product tax contracts to the department of revenue. The department of revenue must consult with the liquor and cannabis board during the negotiations.

(10) Information received by the state or open to state review under the terms of a contract is subject to the provisions of RCW 82.32.330.

(11) It is the intent of the legislature that the liquor and cannabis board and the department of revenue continue the division of duties and shared authority under chapter 82.--- RCW (the new chapter created in section 408 of this act) and therefore the liquor and cannabis board is responsible for enforcement activities that come under the terms of chapter 82.--- RCW (the new chapter created in section 408 of this act).

(12) Each vapor product tax contract must include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the contract should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the contract so allow. A contract must provide for termination of the contract if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period. In addition, the contract must include provisions delineating the respective roles and responsibilities of the tribe, the department of revenue, and the liquor and cannabis board.

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

(a) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development.

(b) "Indian country" has the same meaning as provided in RCW 82.24.010.

(c) "Indian retailer" or "retailer" means:

(i) A retailer wholly owned and operated by an Indian tribe;

(ii) A business wholly owned and operated by a tribal member and licensed by the tribe; or

(iii) A business owned and operated by the Indian person or persons in whose name the land is held in trust.

(d) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(e) "Vapor products" has the same meaning as provided in section 101 of this act.

NEW SECTION. Sec. 303. A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor is authorized to enter into vapor product tax contracts with federally recognized Indian tribes located within the geographical boundaries of the state of Washington. Each contract adopted under this section must provide that the tribal vapor product tax rate be one hundred percent of the state vapor product tax and state and local sales and use taxes. The tribal vapor product tax is in lieu of the state vapor product tax and state and local sales and use taxes, as provided in section 302(3) of this act.

(2) A vapor product tax contract under this section is subject to section 302 of this act and is separate from a cigarette tax contract subject to RCW 43.06.455 or 43.06.466.

NEW SECTION. Sec. 304. A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into a vapor product tax agreement with the Puyallup Tribe of Indians concerning the sale of vapor products, subject to the limitations in this section. The legislature intends to address the uniqueness of the Puyallup Indian reservation and its selling environment through pricing and compliance strategies, rather than through the imposition of equivalent taxes. The governor may delegate the authority to negotiate a vapor product tax agreement with the Puyallup Tribe to the department of revenue. The department of revenue must consult with the liquor and cannabis board during the negotiations. An agreement under this section is separate from an agreement under RCW 43.06.465.

(2) Any agreement must require the tribe to impose a tribal vapor product tax with a tax rate that is ninety percent of the state vapor product tax. This tribal tax is in lieu of the combined state and local sales and use taxes and the state vapor product tax, and as such these state taxes are not imposed during the term of the agreement on any transaction governed by the agreement. The tribal vapor product tax must increase or decrease at the time of any increase or decrease in the state vapor product tax so as to remain at a level that is ninety percent of the rate of the state vapor product tax.

(3) The agreement must include a provision requiring the tribe to transmit thirty percent of the tribal tax revenue on all vapor products sales to the state. The funds must be transmitted to the state treasurer on a quarterly basis for deposit by the state treasurer into the general fund. The remaining tribal tax revenue must be used for essential government services, as that term is defined in section 302 of this act.

(4) The agreement is limited to retail sales in which Indian retailers make delivery and physical transfer of possession of the vapor products from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, agreements may address the legal age of sale for vapor products pursuant to section 11, chapter 15, Laws of 2019.

(5)(a) The agreement must include a provision to price and sell the vapor products so that the retail selling price is not less than the price paid by the retailer for the vapor products.

(b) The tribal tax is in addition to the retail selling price.

(c) The agreement must include a provision to assure the price paid to the retailer includes the tribal tax.

(d) If the tribe is acting as a distributor to tribal retailers, the retail selling price must not be less than the price the tribe paid for such vapor products plus the tribal tax.

(6)(a) The agreement must include provisions regarding enforcement and compliance by the tribe in regard to enrolled tribal members who sell vapor products and must describe the individual and joint responsibilities of the tribe, the department of revenue, and the liquor and cannabis board.

(b) The agreement must include provisions for tax administration and compliance, such as transport and notice requirements, inspection procedures, recordkeeping, and audit requirements.

(c) The agreement must include provisions for sharing of information among the tribe, the department of revenue, and the liquor and cannabis board.

(7) The agreement must provide that retailers must purchase vapor products only from distributors or manufacturers licensed to do business in the state of Washington.

(8) The agreement must be for a renewable period of no more than eight years.

(9) The agreement must include provisions to resolve disputes using a nonjudicial process, such as mediation, and must include a dispute resolution protocol. The protocol must include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the agreement should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the agreement so allow. An agreement must provide for termination of the agreement if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period.

(10) Information received by the state or open to state review under the terms of an agreement is subject to RCW 82.32.330.

(11) It is the intent of the legislature that the liquor and cannabis board and the department of revenue continue the division of duties and shared authority under chapter 82.--- RCW (the new chapter created in section 408 of this act).

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

(a) "Indian country" has the same meaning as provided in RCW 82.24.010.

(b) "Indian retailer" or "retailer" means:

(i) A retailer wholly owned and operated by an Indian tribe; or
 (ii) A business wholly owned and operated by an enrolled tribal member and licensed by the tribe.

(c) "Indian tribe" or "tribe" means the Puyallup Tribe of Indians, which is a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(d) "Vapor products" has the same meaning as provided in section 101 of this act.

NEW SECTION. Sec. 305. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of vapor products by an Indian retailer during the effective period of a vapor product tax contract subject to section 303 of this act or a vapor product tax agreement under section 304 of this act.

(2) The definitions in section 302 of this act apply to this section.

NEW SECTION. Sec. 306. A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of vapor products sold by an Indian retailer during the effective period of a vapor product tax contract subject to section 303 of this act or a vapor product tax agreement under section 304 of this act.

(2) The definitions in section 302 of this act apply to this section.

Sec. 307. 2019 c 15 s 11 (uncodified) is amended to read as follows:

In recognition of the sovereign authority of tribal governments,

the governor may seek government-to-government consultations with federally recognized Indian tribes regarding raising the minimum legal age of sale in compacts entered into pursuant to RCW 43.06.455, 43.06.465, ~~((and))~~ 43.06.466, and sections 302 through 304 of this act. The office of the governor shall report to the appropriate committees of the legislature regarding the status of such consultations no later than December 1, 2020.

Part IV Miscellaneous Provisions

NEW SECTION. Sec. 401. A new section is added to chapter 82.32 RCW to read as follows:

(1) By October 15, 2020, and by each October 15th thereafter, the department must estimate any increase in state general fund revenue collections for the immediately preceding fiscal year resulting from the taxes imposed in chapter . . . , Laws of 2019 (this act). The department must promptly notify the state treasurer of these estimated amounts.

(2) Beginning November 1, 2020, and by each November 1st thereafter, the state treasurer must transfer from the general fund the estimated amount determined by the department under subsection (1) of this section for the immediately preceding fiscal year as follows:

(a) Fifty percent into the Andy Hill cancer research endowment fund match transfer account created in RCW 43.348.080; and

(b) Fifty percent into the foundational public health services account created in section 103 of this act.

(3) The department may not make any adjustments to an estimate under subsection (1) of this section after the state treasurer makes the corresponding distribution under subsection (2) of this section based on the department's estimate.

NEW SECTION. Sec. 402. RCW 43.348.900 (Expiration of chapter) and 2015 3rd sp.s. c 34 s 10 are each repealed.

Sec. 403. RCW 43.348.080 and 2018 c 4 s 8 are each amended to read as follows:

(1) The Andy Hill cancer research endowment fund match transfer account is created in the custody of the ~~((state treasurer as a nonappropriated account to be used solely and exclusively for the program created in RCW 43.348.040. The purpose of the account is to provide matching funds for the fund and administrative costs. Expenditures to fund or reimburse the program administrator are not subject to the requirements of subsection (4) of this section.~~) state treasury to be used solely and exclusively for the program created in RCW 43.348.040. Moneys in the account may be spent only after appropriation. The purpose of the account is to provide matching funds for the fund and administrative costs. Expenditures to fund or reimburse the program administrator are not subject to the requirements of subsection (4) of this section.

~~((2))~~ (2) Revenues to the account must consist of deposits into the account, legislative appropriations, and any gifts, grants, or donations received by the department for this purpose.) state treasury to be used solely and exclusively for the program created in RCW 43.348.040. Moneys in the account may be spent only after appropriation. The purpose of the account is to provide matching funds for the fund and administrative costs. Expenditures to fund or reimburse the program administrator are not subject to the requirements of subsection (4) of this section.

~~((3))~~ (2) The legislature must appropriate a state match, up to a maximum of ten million dollars annually, beginning July 1, 2016, and each July 1st following the end of the fiscal year from tax collections and penalties generated from enforcement of state taxes on cigarettes and other tobacco products by the state liquor and cannabis board or other federal, state or local law or tax enforcement agency, as determined by the department of revenue. Tax collections include any cigarette tax, other tobacco product tax, and retail sales and use tax. Any amounts deposited into this account from the tax imposed under section 102 of this act in excess of the cap provided in this subsection must be deposited into the foundational public health services account created in

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section 103 of this act.

~~((4) Expenditures, in the form of matching funds, from the account may be made only upon receipt of proof from the program administrator of nonstate or private contributions to the fund for the program. Expenditures, in the form of matching funds, may not exceed the total amount of nonstate or private contributions.~~

~~(5) Only the director of the department or the director's designee may authorize expenditures from the Andy Hill cancer research endowment fund match transfer account. Such authorization must be made as soon as practicable following receipt of proof as required under subsection (4) of this section.~~

~~(6) The department must enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.)~~

(3) Revenues to the account must consist of deposits into the account, taxes imposed on vapor products under section 102 of this act, legislative appropriations, and any gifts, grants, or donations received by the department for this purpose.

(4) Each fiscal biennium, the legislature must appropriate to the department of commerce such amounts as estimated to be the balance of the account to provide state matching funds.

(5) Expenditures, in the form of matching funds, from the account may be made only upon receipt of proof from the program administrator of nonstate or private contributions to the fund for the program. Expenditures, in the form of matching funds, may not exceed the total amount of nonstate or private contributions.

(6) The department must enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.

Sec. 404. RCW 82.26.020 and 2010 1st sp.s. c 22 s 5 are each amended to read as follows:

(1) There is levied and collected a tax upon the sale, handling, or distribution of all tobacco products in this state at the following rate:

(a) For cigars except little cigars, ninety-five percent of the taxable sales price of cigars, not to exceed sixty-five cents per cigar;

(b) For all tobacco products except those covered under separate provisions of this subsection, ninety-five percent of the taxable sales price. The tax imposed on a product under this subsection must be reduced by fifty percent if that same product is issued a modified risk tobacco product order by the secretary of the United States department of health and human services pursuant to Title 21 U.S.C. Sec. 387k(g)(1), or by twenty-five percent if that same product is issued a modified risk tobacco product order by the secretary of the United States department of health and human services pursuant to Title 21 U.S.C. Sec. 387k(g)(2). The tax reduction applies during the period the modified risk tobacco product order is in effect;

(c) For moist snuff, as established in this subsection (1)(c) and computed on the net weight listed by the manufacturer:

(i) On each single unit consumer-sized can or package whose net weight is one and two-tenths ounces or less, a rate per single unit that is equal to the greater of 2.526 dollars or eighty-three and one-half percent of the cigarette tax under chapter 82.24 RCW multiplied by twenty; or

(ii) On each single unit consumer-sized can or package whose net weight is more than one and two-tenths ounces, a proportionate tax at the rate established in (c)(i) of this subsection (1) on each ounce or fractional part of an ounce; and

(d) For little cigars, an amount per cigar equal to the cigarette tax under chapter 82.24 RCW.

(2) Taxes under this section must be imposed at the time the

distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers, or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(3) The moneys collected under this section must be deposited into the state general fund.

NEW SECTION. Sec. 405. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. Sec. 406. 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. 407. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 408. Part I of this act constitutes a new chapter in Title 82 RCW.

NEW SECTION. Sec. 409. This act takes effect October 1, 2019."

On page 44, beginning on line 2, strike all material through "date." on line 11 and insert the following:

"On page 1, line 2 of the title, after "products;" strike the remainder of the title and insert "amending RCW 66.08.145, 66.44.010, 82.24.510, 82.24.550, 82.26.060, 82.26.080, 82.26.150, 82.26.220, 82.32.300, 70.345.010, 70.345.030, 70.345.090, 43.06.450, 43.348.080, and 82.26.020; adding new sections to chapter 43.06 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 82 RCW; creating new sections; repealing RCW 43.348.900; prescribing penalties; and providing an effective date.""

Senator Braun spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 902 by Senators Braun and Kuderer to Engrossed Second Substitute House Bill No. 1873.

The motion by Senator Braun carried and amendment no. 902 was adopted by voice vote.

MOTION

On motion of Senator Kuderer, the rules were suspended, Engrossed Second Substitute House Bill No. 1873 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kuderer, Braun, Frockt and Becker spoke in favor of passage of the bill.

MOTION

Senator Short demanded that the previous question be put.

The President declared that at least two additional senators

joined the demand and the demand was sustained.

The President declared the question before the Senate to be, "Shall the main question be now put?"

The motion by Senator Short carried and the previous question was put by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1873 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1873 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman and Wilson, C.

Voting nay: Senators Bailey, Brown, Ericksen, Hasegawa, Holy, Honeyford, O'Ban, Padden, Schoesler, Sheldon, Short, Wilson, L. and Zeiger

Excused: Senator Rivers

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1873, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Liias moved adoption of the following resolution:

SENATE RESOLUTION 8655

By Senators Liias and Short

WHEREAS, The 2019 Regular Session of the Sixty-sixth Legislature is drawing to a close; and

WHEREAS, It is necessary to provide for the completion of the work of the Senate after its adjournment and during the interim period between the close of the 2019 Regular Session of the Sixty-sixth Legislature and the convening of the next regular session;

NOW, THEREFORE, BE IT RESOLVED, That the Senate Facilities and Operations Committee shall have full authority and direction over the authorization and execution of any contracts or subcontracts that necessitate the expenditure of Senate appropriations, subject to all applicable budget controls and limitations; and

BE IT FURTHER RESOLVED, That the Senate Facilities and Operations Committee may, as they deem appropriate, authorize travel for which members and staff may receive therefor their actual necessary expenses, and such per diem as may be authorized by law, subject to all applicable budget controls and limitations, to be paid upon receipt of their vouchers out of funds

appropriated for legislative expenses; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Senate Facilities and Operations Committee be, and they hereby are, authorized to retain such employees as they may deem necessary and that said employees be allowed such rate of pay therefor, subject to all applicable budget controls and limitations, as the Secretary of the Senate and the Senate Facilities and Operations Committee shall deem proper; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and hereby is, authorized and directed to make out and execute the necessary vouchers upon which warrants for legislative expenses and expenditures shall be drawn from funds provided therefor; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Facilities and Operations Committee be, and they hereby are, authorized to approve written requests by standing committees to meet during the interim period; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and hereby is, authorized and directed to have printed a copy of the Senate Journals of the 2019 Regular Session of the Sixty-sixth Legislature; and

BE IT FURTHER RESOLVED, That the Rules Committee is authorized to assign subject matters to standing committees for study during the interim, and the Majority Leader is authorized to create special committees as may be necessary to carry out the functions of the Senate in an orderly manner and appoint members thereto with the approval of the Facilities and Operations Committee; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate is authorized to express the sympathy of the Senate by sending flowers or memorials in the event of a bereavement in the legislative "family"; and

BE IT FURTHER RESOLVED, That such use of the Senate facilities is permitted upon such terms as the Secretary of the Senate shall deem proper.

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

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

MOTION

On motion of Senator Liias, the Senate reverted to the fifth order of business.

INTRODUCTION AND FIRST READING

SCR 8409 by Senators Liias and Short

Returning bills to their house of origin.

Placed on 2nd Reading Calendar.

SCR 8410 by Senators Liias and Short

Adjourning SINE DIE.

Placed on 2nd Reading Calendar.

MOTION

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

MOTION

On motion of Senator Liias, the Senate advanced to the sixth

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order of business.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8409, by Senators Lias and Short

Returning bills to their house of origin.

The measure was read the second time.

MOTION

On motion of Senator Lias, the rules were suspended, Senate Concurrent Resolution No. 8409 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8409.

SENATE CONCURRENT RESOLUTION NO. 8409 having received a majority was adopted by voice vote.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8410, by Senators Lias and Short

Adjourning SINE DIE.

The measure was read the second time.

MOTION

On motion of Senator Lias, the rules were suspended, Senate Concurrent Resolution No. 8410 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8410.

SENATE CONCURRENT RESOLUTION NO. 8410 having received a majority was adopted by voice vote.

MOTIONS

On motion of Senator Lias and without objection, Senate Bill No. 5886 which had previously been held at the desk was referred to the Committee on Labor & Commerce.

On motion of Senator Lias and without objection, the following measures on the second and third reading calendars were returned to the Committee on Rules:

- Senate Bill No. 5053,
- Senate Bill No. 5128,
- Senate Bill No. 5285,
- Senate Bill No. 5407,
- Senate Bill No. 5419,
- Senate Bill No. 5537,
- Senate Bill No. 5590,
- Senate Bill No. 5643,
- Senate Bill No. 5697,
- Senate Bill No. 5848,
- Senate Bill No. 5871,

- Senate Bill No. 5996,
- Senate Bill No. 5999,
- Senate Bill No. 6009,
- Senate Joint Resolution No. 8212,
- Senate Gubernatorial Appointment No. 9003,
- Senate Gubernatorial Appointment No. 9046,
- Senate Gubernatorial Appointment No. 9054,
- Senate Gubernatorial Appointment No. 9064,
- Senate Gubernatorial Appointment No. 9075,
- Senate Gubernatorial Appointment No. 9076,
- Senate Gubernatorial Appointment No. 9084,
- Senate Gubernatorial Appointment No. 9093,
- Senate Gubernatorial Appointment No. 9095,
- Senate Gubernatorial Appointment No. 9097,
- Senate Gubernatorial Appointment No. 9105,
- Senate Gubernatorial Appointment No. 9106,
- Senate Gubernatorial Appointment No. 9109,
- Senate Gubernatorial Appointment No. 9113,
- Senate Gubernatorial Appointment No. 9114,
- Senate Gubernatorial Appointment No. 9116,
- Senate Gubernatorial Appointment No. 9119,
- Senate Gubernatorial Appointment No. 9120,
- Senate Gubernatorial Appointment No. 9123,
- Senate Gubernatorial Appointment No. 9124,
- Senate Gubernatorial Appointment No. 9140,
- Senate Gubernatorial Appointment No. 9147,
- Senate Gubernatorial Appointment No. 9155,
- Senate Gubernatorial Appointment No. 9156,
- Senate Gubernatorial Appointment No. 9165,
- Senate Gubernatorial Appointment No. 9166,
- Senate Gubernatorial Appointment No. 9171,
- Senate Gubernatorial Appointment No. 9182,
- Senate Gubernatorial Appointment No. 9184,
- Senate Gubernatorial Appointment No. 9202,
- Senate Gubernatorial Appointment No. 9209,
- Senate Gubernatorial Appointment No. 9214,
- Senate Gubernatorial Appointment No. 9217,
- Senate Gubernatorial Appointment No. 9222,
- Senate Gubernatorial Appointment No. 9223,
- Senate Gubernatorial Appointment No. 9225,
- Senate Gubernatorial Appointment No. 9228,
- Senate Gubernatorial Appointment No. 9250,
- Senate Gubernatorial Appointment No. 9251,
- and Senate Gubernatorial Appointment No. 9255.

REMARKS BY THE PRESIDENT

President Habib: "I would just take a moment of privilege to do this. I know that we have done this at certain moments at cutoff but, since we do have a moment right now, to just say a word of thanks to all the men and women who work so hard here to make this happen. We got a chance to thank the Dining Room staff before they left for the day but there are so many others. All of our, what I call our floor team, the rostrum staff, the workroom. You all know how hard they work you've seen that they work twenty-four hours a day, literally. They have done that these past few days. Senate Security who keeps us safe and does it with so much dignity all of the time. The rostrum staff that is up here, led by the Secretary of the Senate. I want to thank him for his service to our state and the wonderful way in which he leads his staff and the entire agency of the Senate. Of course, the two attorneys who are not even listening to me right now because they're still working on making everything happen. Jeannie and Victoria, who have made many of your dreams come true with their legal maneuvers and ability to explain things. There're so many others but of course Senate Committee Services, all the partisan staff in both caucuses. Please, would the Senate join me in thanking them for their work this year."

The senate rose and recognized the work of the staff of the Washington State Senate.

MESSAGES FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1326,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2042,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2163,
SUBSTITUTE HOUSE BILL NO. 2167,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 28, 2019

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 1873,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2140,
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 28, 2019

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1109 and has passed the bill as recommended by the Conference Committee.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 28, 2019

MR. PRESIDENT:

The House has adopted:

SENATE CONCURRENT RESOLUTION NO. 8409,
SENATE CONCURRENT RESOLUTION NO. 8410,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

On motion of Senator Liias, the reading of the Journal for the 105th day of the 2019 Regular Session of the 66th Legislature was dispensed with and it was approved.

SIGNED BY THE PRESIDENT

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

SENATE CONCURRENT RESOLUTION NO. 8406,
SENATE CONCURRENT RESOLUTION NO. 8409,
SENATE CONCURRENT RESOLUTION NO. 8410.

MESSAGE FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:

The Speaker has signed:

HOUSE BILL NO. 1190,

ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 1873,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2140,
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 28, 2019

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5313,
SUBSTITUTE SENATE BILL NO. 5370,
SENATE BILL NO. 6025,

SENATE CONCURRENT RESOLUTION NO. 8406,
SENATE CONCURRENT RESOLUTION NO. 8409,
SENATE CONCURRENT RESOLUTION NO. 8410,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

SIGNED BY THE PRESIDENT

ENGROSSED SUBSTITUTE SENATE BILL NO. 5313,
SUBSTITUTE SENATE BILL NO. 5370,
SENATE BILL NO. 6025.

SIGNED BY THE PRESIDENT

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1109,
SUBSTITUTE HOUSE BILL NO. 1326,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 1873,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2042,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2140,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2163,
SUBSTITUTE HOUSE BILL NO. 2167.

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8409, the following House Bills were returned to the House of Representatives:

SUBSTITUTE HOUSE BILL NO. 1002,
SUBSTITUTE HOUSE BILL NO. 1009,
SUBSTITUTE HOUSE BILL NO. 1028,
ENGROSSED SECOND SUBSTITUTE

HOUSE BILL NO. 1033,

SECOND SUBSTITUTE HOUSE BILL NO. 1039,

ENGROSSED HOUSE BILL NO. 1056,

ENGROSSED HOUSE BILL NO. 1058,

HOUSE BILL NO. 1061,

HOUSE BILL NO. 1079,

SUBSTITUTE HOUSE BILL NO. 1082,

HOUSE BILL NO. 1089,

SUBSTITUTE HOUSE BILL NO. 1100,

ENGROSSED SECOND SUBSTITUTE

HOUSE BILL NO. 1110,

HOUSE BILL NO. 1120,

SUBSTITUTE HOUSE BILL NO. 1158,

SUBSTITUTE HOUSE BILL NO. 1168,

ENGROSSED HOUSE BILL NO. 1169,

HOUSE BILL NO. 1187,

SUBSTITUTE HOUSE BILL NO. 1189,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1207,

HOUSE BILL NO. 1212,

HOUSE BILL NO. 1220,

SUBSTITUTE HOUSE BILL NO. 1231,

SUBSTITUTE HOUSE BILL NO. 1244,

SUBSTITUTE HOUSE BILL NO. 1251,

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HOUSE BILL NO. 1255,
 SUBSTITUTE HOUSE BILL NO. 1264,
 SECOND SUBSTITUTE HOUSE BILL NO. 1272,
 HOUSE BILL NO. 1278,
 HOUSE BILL NO. 1279,
 HOUSE BILL NO. 1285,
 ENGROSSED SECOND SUBSTITUTE
 HOUSE BILL NO. 1296,
 SECOND SUBSTITUTE HOUSE BILL NO. 1304,
 HOUSE BILL NO. 1305,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1308,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332,
 HOUSE BILL NO. 1335,
 HOUSE BILL NO. 1341,
 HOUSE BILL NO. 1368,
 SUBSTITUTE HOUSE BILL NO. 1383,
 HOUSE BILL NO. 1397,
 HOUSE BILL NO. 1413,
 HOUSE BILL NO. 1423,
 HOUSE BILL NO. 1441,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1453,
 THIRD SUBSTITUTE HOUSE BILL NO. 1498,
 SUBSTITUTE HOUSE BILL NO. 1520,
 ENGROSSED SECOND SUBSTITUTE
 HOUSE BILL NO. 1523,
 SUBSTITUTE HOUSE BILL NO. 1529,
 HOUSE BILL NO. 1548,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1565,
 SUBSTITUTE HOUSE BILL NO. 1576,
 SECOND SUBSTITUTE HOUSE BILL NO. 1580,
 HOUSE BILL NO. 1583,
 SUBSTITUTE HOUSE BILL NO. 1595,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1622,
 SUBSTITUTE HOUSE BILL NO. 1633,
 SUBSTITUTE HOUSE BILL NO. 1644,
 ENGROSSED SECOND SUBSTITUTE
 HOUSE BILL NO. 1660,
 SUBSTITUTE HOUSE BILL NO. 1661,
 HOUSE BILL NO. 1670,
 HOUSE BILL NO. 1674,
 HOUSE BILL NO. 1676,
 SUBSTITUTE HOUSE BILL NO. 1686,
 HOUSE BILL NO. 1702,
 HOUSE BILL NO. 1707,
 SUBSTITUTE HOUSE BILL NO. 1715,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1723,
 SECOND SUBSTITUTE HOUSE BILL NO. 1725,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1747,
 HOUSE BILL NO. 1755,
 SUBSTITUTE HOUSE BILL NO. 1769,
 SECOND SUBSTITUTE HOUSE BILL NO. 1776,
 SUBSTITUTE HOUSE BILL NO. 1791,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1793,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1799,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1813,
 SUBSTITUTE HOUSE BILL NO. 1826,
 HOUSE BILL NO. 1829,
 SUBSTITUTE HOUSE BILL NO. 1836,
 HOUSE BILL NO. 1838,
 HOUSE BILL NO. 1841,
 SUBSTITUTE HOUSE BILL NO. 1847,
 SUBSTITUTE HOUSE BILL NO. 1869,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1880,
 ENGROSSED HOUSE BILL NO. 1912,
 HOUSE BILL NO. 1952,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1966,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1997,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1998,
 HOUSE BILL NO. 2008,
 ENGROSSED HOUSE BILL NO. 2009,
 HOUSE BILL NO. 2033,
 HOUSE BILL NO. 2040,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2050,
 HOUSE BILL NO. 2051,
 ENGROSSED HOUSE BILL NO. 2066,
 HOUSE BILL NO. 2075,
 HOUSE BILL NO. 2085,
 SUBSTITUTE HOUSE BILL NO. 2108,
 HOUSE BILL NO. 2110,
 HOUSE BILL NO. 2129.

MESSAGE FROM THE HOUSE

April 28, 2019

MR. PRESIDENT:

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8409, the following Senate bills are returned to the Senate:

ENGROSSED SENATE BILL NO. 5008,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5024,
 SUBSTITUTE SENATE BILL NO. 5030,
 SENATE BILL NO. 5036,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5051,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5067,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5077,
 SENATE BILL NO. 5078,
 SECOND SUBSTITUTE SENATE BILL NO. 5093,
 SUBSTITUTE SENATE BILL NO. 5096,
 SENATE BILL NO. 5113,
 ENGROSSED SECOND SUBSTITUTE
 SENATE BILL NO. 5120,
 SENATE BILL NO. 5125,
 SUBSTITUTE SENATE BILL NO. 5137,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5139,
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and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

At 12:00 o'clock a.m., Monday, April 28, 2019, on motion of Senator Liias, the 2019 Regular Session of the Sixty-Sixth Legislature adjourned SINE DIE.

CYRUS HABIB, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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