

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

NINETY FIRST DAY

NOON SESSION

Senate Chamber, Olympia
Sunday, April 11, 2021

The Senate was called to order at 12:03 p.m. by the President of the Senate, Lt. Governor Heck presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Washington State Patrol Honor Guard presented the Colors.

Miss Elizabeth Busch Conway and Miss Anna Busch Conway led the Senate in the Pledge of Allegiance. They are the granddaughters of Senator Conway.

Pastor Bob Luhn of the Othello Church of the Nazarene offered the prayer. Pastor Luhn is a guest of Senator Schoesler.

MOTIONS

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

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

REPORTS OF STANDING COMMITTEES

April 10, 2021

SB 5476 Prime Sponsor, Senator Dhingra: Addressing the State v. Blake decision. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Braun; Carlyle; Darneille; Dhingra; Gildon; Hasegawa; Hunt; Keiser; Mullet; Pedersen; Rivers; Van De Wege and Wellman.

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

Referred to Committee on Rules for second reading.

MOTIONS

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

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

MESSAGE FROM THE HOUSE

April 10, 2021

MR. PRESIDENT:

The House has passed:

SECOND SUBSTITUTE SENATE BILL NO. 5000,
SENATE BILL NO. 5063,
SUBSTITUTE SENATE BILL NO. 5080,
SENATE BILL NO. 5159,

SENATE BILL NO. 5367,
and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

On motion of Senator Liias, Senate Emergency Rule K was suspended for the rest of the day.

EDITOR'S NOTE: Senate Emergency Rule K establishes rules for the consideration of bills and amendments.

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.

MOTION

At 12:09 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Rivers announced a meeting of the Republican Caucus.

AFTERNOON SESSION

The Senate was called to order at 2:21 p.m. by President Heck.

MOTION

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

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1033, by House Committee on Finance (originally sponsored by Leavitt, Boehnke, Bronoske, Santos, Paul and Orwall)

Concerning the Washington customized employment training program.

The measure was read the second time.

MOTION

On motion of Senator Randall, the rules were suspended, Second Substitute House Bill No. 1033 was advanced to third

reading, the second reading considered the third and the bill was placed on final passage.

Senators Randall, Holy and King spoke in favor of passage of the bill.

MOTION

On motion of Senator Randall, Senator Hobbs was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1033.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1033 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senator Hasegawa

Excused: Senator Hobbs

SECOND SUBSTITUTE HOUSE BILL NO. 1033, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1502, by House Committee on Transportation (originally sponsored by Wylie, Griffey, Ramel, Paul, Lekanoff, Berry, Ortiz-Self, Hackney, Harris-Talley and Pollet)

Concerning the procurement and design of electric ferries by counties.

The measure was read the second time.

MOTION

On motion of Senator Lovelett, the rules were suspended, Substitute House Bill No. 1502 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Lovelett and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1502.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1502 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall,

Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Hobbs

SUBSTITUTE HOUSE BILL NO. 1502, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1069, by House Committee on Finance (originally sponsored by Pollet, Duerr, Leavitt, Wylie, Tharinger, Kloba, Senn, Ryu, Callan and Fey)

Concerning local government fiscal flexibility.

The measure was read the second time.

MOTION

Senator Warnick moved that the following floor amendment no. 717 by Senator Warnick be adopted:

Beginning on page 1, line 17, strike all of sections 2 through 4
 Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 2 of the title, after "RCW" strike all material through "82.14.330,"

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

Senator Kuderer spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 717 by Senator Warnick on page 1, line 17 to Engrossed Second Substitute House Bill No. 1069.

The motion by Senator Warnick did not carry and floor amendment no. 717 was not adopted by voice vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 712 by Senator Fortunato be adopted:

Beginning on page 8, line 38, strike all of sections 5 and 6
 Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 2 of the title, after "82.14.330," strike "82.14.340, 82.14.450,"

Senator Fortunato spoke in favor of adoption of the amendment.

Senator Kuderer spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 712 by Senator Fortunato on page 8, line 38 to Engrossed Second Substitute House Bill No. 1069.

The motion by Senator Fortunato did not carry and floor amendment no. 712 was not adopted by voice vote.

MOTION

On motion of Senator Kuderer, the rules were suspended,

NINETY FIRST DAY, APRIL 11, 2021

Engrossed Second Substitute House Bill No. 1069 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kuderer spoke in favor of passage of the bill.

Senators Fortunato and Padden spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1069.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1069 and the bill 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, Hunt, Keiser, Kuderer, Lias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hasegawa, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Hobbs

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1069, 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. 1140, by House Committee on Civil Rights & Judiciary (originally sponsored by J. Johnson, Frame, Entenman, Sells, Taylor, Santos, Stonier, Ormsby, Lekanoff, Davis, Hackney, Macri, Callan, Chopp, Pollet, Ryu, Goodman, Berg, Ramos, Bergquist, Gregerson, Wicks, Peterson, Thai, Dolan, Bateman, Simmons, Fitzgibbon and Valdez)

Concerning juvenile access to attorneys when contacted by law enforcement.

The measure was read the second time.

MOTION

Senator Darneille 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 13.40 RCW to read as follows:

(1) Except as provided in subsection (4) of this section, law enforcement shall provide a juvenile with access to an attorney for consultation, which may be provided in person, by telephone, or by video conference, before the juvenile waives any constitutional rights if a law enforcement officer:

- (a) Questions a juvenile during a custodial interrogation;
- (b) Detains a juvenile based on probable cause of involvement in criminal activity; or
- (c) Requests that the juvenile provide consent to an evidentiary

2021 REGULAR SESSION

search of the juvenile or the juvenile's property, dwellings, or vehicles under the juvenile's control.

(2) The consultation required by subsection (1) of this section may not be waived.

(3) Statements made by a juvenile after the juvenile is contacted by a law enforcement officer in a manner described under subsection (1) of this section are not admissible in a juvenile offender or adult criminal court proceeding, unless:

(a) The juvenile has been provided with access to an attorney for consultation; and the juvenile provides an express waiver knowingly, intelligently, and voluntarily made by the juvenile after the juvenile has been fully informed of the rights being waived as required under RCW 13.40.140;

(b) The statement is for impeachment purposes; or

(c) The statement was made spontaneously.

(4) A law enforcement officer may question a juvenile without following the requirement in subsection (1) of this section if:

(a) The law enforcement officer believes the juvenile is a victim of trafficking as defined in RCW 9A.40.100; however, any information obtained from the juvenile by law enforcement pursuant to this subsection cannot be used in any prosecution of that juvenile; or

(b)(i) The law enforcement officer believes that the information sought is necessary to protect an individual's life from an imminent threat;

(ii) A delay to allow legal consultation would impede the protection of an individual's life from an imminent threat; and

(iii) Questioning by the law enforcement officer is limited to matters reasonably expected to obtain information necessary to protect an individual's life from an imminent threat.

(5) After the juvenile has consulted with legal counsel, the juvenile may advise, direct a parent or guardian to advise, or direct legal counsel to advise the law enforcement officer that the juvenile chooses to assert a constitutional right. Any assertion of constitutional rights by the juvenile through legal counsel must be treated by a law enforcement officer as though it came from the juvenile. The waiver of any constitutional rights of the juvenile may only be made according to the requirements of RCW 13.40.140.

(6) For purposes of this section, the following definitions apply:

(a) "Juvenile" means any individual who is under the chronological age of 18 years; and

(b) "Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020, including school resource officers as defined in RCW 28A.320.124 and other public officers who are responsible for enforcement of fire, building, zoning, and life and safety codes.

Sec. 2. RCW 13.40.140 and 2014 c 110 s 2 are each amended to read as follows:

(1) A juvenile shall be advised of (~~his or her~~) the juvenile's rights when appearing before the court.

(2) A juvenile and (~~his or her~~) the juvenile's parent, guardian, or custodian shall be advised by the court or its representative that the juvenile has a right to be represented by counsel at all critical stages of the proceedings. Unless waived, counsel shall be provided to a juvenile who is financially unable to obtain counsel without causing substantial hardship to himself or herself or the juvenile's family, in any proceeding where the juvenile may be subject to transfer for criminal prosecution, or in any proceeding where the juvenile may be in danger of confinement. The ability to pay part of the cost of counsel does not preclude assignment. In no case may a juvenile be deprived of counsel because of a parent, guardian, or custodian refusing to pay therefor. The

juvenile shall be fully advised of (~~his or her~~) the juvenile's right to an attorney and of the relevant services an attorney can provide.

(3) The right to counsel includes the right to the appointment of experts necessary, and the experts shall be required pursuant to the procedures and requirements established by the supreme court.

(4) Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing, or such subpoenas may be issued by an attorney of record.

(5) All proceedings shall be transcribed verbatim by means which will provide an accurate record.

(6) The general public and press shall be permitted to attend any hearing unless the court, for good cause, orders a particular hearing to be closed. The presumption shall be that all such hearings will be open.

(7) In all adjudicatory proceedings before the court, all parties shall have the right to adequate notice, discovery as provided in criminal cases, opportunity to be heard, confrontation of witnesses except in such cases as this chapter expressly permits the use of hearsay testimony, findings based solely upon the evidence adduced at the hearing, and an unbiased fact finder.

(8) A juvenile shall be accorded the same privilege against self-incrimination as an adult and the protections provided in section 1 of this act. An extrajudicial statement which would be constitutionally inadmissible in a criminal proceeding may not be received in evidence at an adjudicatory hearing over objection. Evidence illegally seized or obtained, including evidence obtained in violation of section 1 of this act, may not be received in evidence over objection at an adjudicatory hearing to prove the allegations against the juvenile if the evidence would be inadmissible in an adult criminal proceeding. An extrajudicial admission or confession made by the juvenile out of court is insufficient to support a finding that the juvenile committed the acts alleged in the information unless evidence of a corpus delicti is first independently established in the same manner as required in an adult criminal proceeding.

(9) Statements, admissions, or confessions made by a juvenile in the course of a mental health or chemical dependency screening or assessment, whether or not the screening or assessment was ordered by the court, shall not be admissible into evidence against the juvenile on the issue of guilt in any juvenile offense matter or adult criminal proceeding, unless the juvenile has placed (~~his or her~~) the juvenile's mental health at issue. The statement is admissible for any other purpose or proceeding allowed by law. This prohibition does not apply to statements, admissions, or confessions made to law enforcement, and may not be used to argue for derivative suppression of other evidence lawfully obtained as a result of an otherwise inadmissible statement, admission, or confession.

(10) Waiver of any right which a juvenile has under this chapter must be an express waiver intelligently made by the juvenile after the juvenile has been fully informed of the right being waived, including having access to an attorney for consultation if required under section 1 of this act.

(11) Whenever this chapter refers to waiver or objection by a juvenile, the word juvenile shall be construed to refer to a juvenile who is at least (~~twelve~~) 12 years of age. If a juvenile is under (~~twelve~~) 12 years of age, the juvenile's parent, guardian, or custodian shall give any waiver or offer any objection contemplated by this chapter.

Sec. 3. RCW 2.70.020 and 2012 c 257 s 1 are each amended to read as follows:

The director shall:

(1) Administer all state-funded services in the following

program areas:

(a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;

(b) Appellate indigent defense, as provided in this chapter;

(c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;

(d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;

(e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;

(f) Representation of indigent respondents qualified for appointed counsel in sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW; and

(g) Provide access to attorneys for juveniles contacted by a law enforcement officer for whom a legal consultation is required under section 1 of this act;

(2) Submit a biennial budget for all costs related to the office's program areas;

(3) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

(4) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

(5) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;

(6) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

(7) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided.

The office of public defense shall not provide direct representation of clients.

NEW SECTION. Sec. 4. A new section is added to chapter 2.70 RCW to read as follows:

Subject to the rules of discovery, the office of public defense is authorized to collect identifying information for any youth who speaks with a consulting attorney pursuant to section 1 of this act; provided, however, that such records are exempt from public disclosure.

Sec. 5. RCW 13.40.020 and 2019 c 444 s 9 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined

NINETY FIRST DAY, APRIL 11, 2021

by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed ~~((five hundred dollars))~~ \$500;

(b) Community restitution not to exceed ~~((one hundred fifty))~~ 150 hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than ~~((sixty))~~ 60 days after the youth begins inpatient treatment, and every ~~((thirty))~~ 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than ~~((thirty one))~~ 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

2021 REGULAR SESSION

(7) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(8) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(9) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(10) "Department" means the department of children, youth, and families;

~~((40))~~ (11) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

~~((44))~~ (12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

~~((42))~~ (13) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

~~((43))~~ (14) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

~~((44))~~ (15) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

~~((45))~~ (16) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of ~~((eighteen))~~ 18 years and who has not been previously transferred to adult court

pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

~~((16))~~ (17) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person ~~((eighteen))~~ 18 years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

~~((17))~~ (18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

~~((18))~~ (19) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

~~((19))~~ (20) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((20))~~ (21) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

~~((21))~~ (22) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((22))~~ (23) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

~~((23))~~ (24) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

~~((24))~~ (25) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((25))~~ (26) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((26))~~ (27) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense.

Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((27))~~ (28) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

~~((28))~~ (29) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

~~((29))~~ (30) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

~~((30))~~ (31) "Secretary" means the secretary of the department;

~~((31))~~ (32) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((32))~~ (33) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((33))~~ (34) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of ~~((his or her))~~ the respondent's sexual gratification;

~~((34))~~ (35) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((35))~~ (36) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

~~((36))~~ (37) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((37))~~ (38) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((38))~~ (39) "Youth court" means a diversion unit under the supervision of the juvenile court.

NEW SECTION. **Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 7.** This act takes effect January 1, 2022."

On page 1, line 2 of the title, after "enforcement;" strike the remainder of the title and insert "amending RCW 13.40.140, 2.70.020, and 13.40.020; adding a new section to chapter 13.40 RCW; adding a new section to chapter 2.70 RCW; creating a new section; and providing an effective date."

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

ROLL CALL

Senator Wagoner moved that the following floor amendment no. 811 by Senator Wagoner be adopted:

On page 1, line 16, after "(2)" insert "The consultation required in subsection (1) of this section is not required during a situation where the youth is under reasonable suspicion of having committed a traffic infraction and is suspected of driving under the influence or driving recklessly.

(3)"

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

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

WITHDRAWAL OF AMENDMENT

On motion of Senator Wagoner and without objection, floor amendment no. 811 by Senator Wagoner on page 1, line 16 to Engrossed Substitute House Bill No. 1140 was withdrawn.

MOTION

Senator Holy moved that the following floor amendment no. 805 by Senator Holy be adopted:

On page 2, line 2, after "juvenile;" strike "or"

On page 2, line 10, after "threat" insert "; or

(c) Exigent circumstances exist and following the requirement would place the officer or juvenile at greater risk of harm, lead to destruction of relevant evidence, escape of the suspect, or some other consequence frustrating legitimate law enforcement efforts"

Senators Holy and Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Dhingra spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 805 by Senator Holy on page 2, line 2 to Engrossed Substitute House Bill No. 1140.

The motion by Senator Holy did not carry and floor amendment no. 805 was not 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 to Engrossed Substitute House Bill No. 1140.

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

MOTION

On motion of Senator Darneille, the rules were suspended, Engrossed Substitute House Bill No. 1140, 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 Darneille spoke in favor of passage of the bill.

Senators Fortunato and Padden spoke against passage of the bill.

Senator Gildon spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1140 as amended by the Senate.

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1140, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Gildon, Hasegawa, Hawkins, Hunt, Keiser, Kuderer, Lias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Erickson, Fortunato, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Hobbs

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1140, 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

Pursuant to Rule 18, on motion of Senator Lias, Engrossed Substitute Senate Bill No. 1336, relating to authority for public entities to provide telecommunications services, was named a special order to be considered at 4:55 p.m.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1186, by House Committee on Appropriations (originally sponsored by Goodman, Senn, Sullivan, Leavitt, Gregerson, Fitzgibbon, Ortiz-Self, Duerr, Tharinger, Macri, Davis, Pollet, Callan, Harris-Talley and Hackney)

Concerning juvenile rehabilitation.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

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

(1) The department of children, youth, and families seeks to expand trauma-informed, culturally relevant, racial equity-based, and developmentally appropriate therapeutic placement supports in less restrictive community settings. Under current law, these supports are limited to placement in community facilities—which are only available for about 25 percent of juvenile rehabilitation's population—and electronic home monitoring for persons serving adult sentences in the custody of the department of children, youth, and families' juvenile rehabilitation who have an earned release date between the ages of 25 and 26.

(2) To help reduce the bottleneck of youth and young adults placed in the department's juvenile rehabilitation institutions and enhance community-based, less restrictive options, this act creates a community transition services program, which utilizes electronic home monitoring as a tool embedded in a progressively supportive community-based approach with therapeutic supports for young people reentering the community. This approach

considers developmentally appropriate programs for successful reentry by increasing access to community transition services, including housing assistance, behavioral health treatment, independent living, employment, education, and family and community connections.

Sec. 2. RCW 72.01.412 and 2019 c 322 s 6 are each amended to read as follows:

(1) A person in the custody of the department of children, youth, and families under RCW 72.01.410 (~~who has an earned release date that is after the person's twenty-fifth birthday but on or before the person's twenty-sixth birthday may, after turning twenty five, serve the remainder of the person's term of confinement in partial confinement on electronic home monitoring~~) is eligible for community transition services under the authority and supervision of the department of children, youth, and families(~~(, provided that the)~~);

(a) After the person's 25th birthday:

(i) If the person's earned release date is after the person's 25th birthday but on or before the person's 26th birthday; and

(ii) The department of children, youth, and families determines that placement in community transition services is in the best interests of the person and the community; or

(b) After 60 percent of their term of confinement has been served, and no less than 15 weeks of total confinement served including time spent in detention prior to sentencing or the entry of a dispositional order if:

(i) The person has an earned release date that is before their 26th birthday; and

(ii) The department of children, youth, and families determines that such placement and retention by the department of children, youth, and families is in the best interests of the person and the community.

(2) "Term of confinement" as used in subsection (1)(a) of this section means the term of confinement ordered, reduced by the total amount of earned time eligible for the offense.

(3) The department's determination under subsection (1)(a)(i) and (b)(ii) of this section must include consideration of the person's behavior while in confinement and any disciplinary considerations.

(4) The department of children, youth, and families retains the authority to transfer the person to the custody of the department of corrections under RCW 72.01.410.

~~((2))~~ (5) A person may only be placed in community transition services under this section for the remaining 18 months of their term of confinement.

(6) A person placed ~~(on electronic home monitoring)~~ in community transition services under this section must ~~((otherwise continue to be subject to similar treatment, options, access to programs and resources, conditions, and restrictions applicable to other similarly situated persons under the jurisdiction of the department of children, youth, and families))~~ have access to appropriate treatment and programming as determined by the department of children, youth, and families, including but not limited to:

(a) Behavioral health treatment;

(b) Independent living;

(c) Employment;

(d) Education;

(e) Connections to family and natural supports; and

(f) Community connections.

(7) If the person has a sentence that includes a term of community custody, this term of community custody must begin after the current term of confinement has ended.

~~((3))~~ (8) If a person placed on ~~(electronic home monitoring)~~ community transition services under this section commits a violation requiring the return of the person to total confinement

after the person's 25th birthday, the person must be transferred to the custody and supervision of the department of corrections for the remainder of the sentence.

(9) The following persons are not eligible for community transition services under this section:

(a) Persons with pending charges or warrants;

(b) Persons who will be transferred to the department of corrections, who are in the custody of the department of corrections, or who are under the supervision of the department of corrections;

(c) Persons who were adjudicated or convicted of the crime of murder in the first or second degree;

(d) Persons who meet the definition of a "persistent offender" as defined under RCW 9.94A.030;

(e) Level III sex offenders; and

(f) Persons requiring out-of-state placement.

(10) As used in this section, "community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of his or her term of confinement residing in the community, outside of the department of children, youth, and families institutions and community facilities;

(b) The department of children, youth, and families supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department of children, youth, and families provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department of children, youth, and families prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race; ethnicity; sexual identity; and gender identity.

Sec. 3. RCW 13.40.020 and 2019 c 444 s 9 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;
 (b) Community-based rehabilitation;
 (c) Monitoring and reporting requirements;
 (d) Posting of a probation bond;
 (e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;
 (B) The referral is necessary to protect the public or the child;
 (C) The referral is in the child's best interest;
 (D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and
 (E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than sixty days after the youth begins inpatient treatment, and every thirty days thereafter, as long as the youth is in inpatient treatment;

(6) "Community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of their term of confinement residing in the community, outside of department institutions and community facilities;

(b) The department supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race, ethnicity, sexual identity, and gender identity;

(7) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less

than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

~~((7))~~ (8) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

~~((8))~~ (9) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

~~((9))~~ (10) "Department" means the department of children, youth, and families;

~~((10))~~ (11) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

~~((11))~~ (12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

~~((12))~~ (13) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

~~((13))~~ (14) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

~~((14))~~ (15) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

~~((15))~~ (16) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she

was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

~~((46))~~ (17) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

~~((47))~~ (18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

~~((48))~~ (19) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

~~((49))~~ (20) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((20))~~ (21) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

~~((21))~~ (22) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((22))~~ (23) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

~~((23))~~ (24) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

~~((24))~~ (25) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((25))~~ (26) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((26))~~ (27) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses.

Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((27))~~ (28) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

~~((28))~~ (29) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

~~((29))~~ (30) "Risk assessment tool" means the statistically valid tool used by the department to inform release or placement decisions related to security level, release within the sentencing range, community facility eligibility, community transition services eligibility, and parole. The "risk assessment tool" is used by the department to predict the likelihood of successful reentry and future criminal behavior;

(31) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

~~((30))~~ (32) "Secretary" means the secretary of the department;

~~((31))~~ (33) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((32))~~ (34) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((33))~~ (35) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((34))~~ (36) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((35))~~ (37) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

~~((36))~~ (38) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((37))~~ (39) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((38))~~ (40) "Youth court" means a diversion unit under the supervision of the juvenile court.

Sec. 4. RCW 13.40.205 and 2019 c 468 s 1 are each amended to read as follows:

(1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all preminimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

(5) Upon authorizing a leave, the secretary shall issue to the juvenile an authorized leave order which shall contain the name of the juvenile, the fact that the juvenile is on leave from a designated facility, the time period of the leave, and the identity of an appropriate official of the department to contact when necessary. The authorized leave order shall be carried by the juvenile at all times while on leave.

(6) Prior to the commencement of any authorized leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave.

(7) The secretary may authorize a leave, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. In cases of emergency or medical leave the secretary may waive all or any portions of subsections (2)(a), (3), (4), (5), and (6) of this section.

(8) If requested by the juvenile's victim or the victim's immediate family, the secretary shall give notice of any leave or community transition services under subsection (13) of this section to the victim or the victim's immediate family.

(9) A juvenile who violates any condition of an authorized leave plan or community transition services under subsection (13) of this section may be taken into custody and returned to the department in the same manner as an adult in identical circumstances.

(10) Community transition services is an electronic monitoring program as that term is used in RCW 9A.76.130.

(11) Notwithstanding the provisions of this section, a juvenile placed in minimum security status or in community transition services under subsection (13) of this section may participate in

work, educational, community restitution, or treatment programs in the community up to twelve hours a day if approved by the secretary. Such a release shall not be deemed a leave of absence. This authorization may be increased to more than twelve hours a day up to sixteen hours a day if approved by the secretary and operated within the department's appropriations.

~~((44))~~ (12) Subsections (6), (7), and (8) of this section do not apply to juveniles covered by RCW 13.40.215.

(13)(a) The department may require a person in its custody to serve the remainder of the person's sentence in community transition services if the department determines that such placement is in the best interest of the person and the community using the risk assessment tool and considering the availability of appropriate placements, treatment, and programming. The department's determination described under this subsection must include consideration of the person's behavior while in confinement and any disciplinary considerations. The department shall establish appropriate conditions the person must comply with to remain in community transition services. A person must have served 60 percent of their minimum term of confinement and no less than 15 weeks of total confinement including time spent in detention prior to sentencing or the entry of a dispositional order before becoming eligible for community transition services under the authority and supervision of the department.

(b) A person placed in community transition services under this section must have access to appropriate treatment and programming as determined by the department, including but not limited to:

(i) Behavioral health treatment;

(ii) Independent living;

(iii) Employment;

(iv) Education;

(v) Connections to family and natural supports; and

(vi) Community connections.

(c) Community transition services under this section is in lieu of confinement in an institution or community facility operated by the department, and will not fulfill any period of parole required under RCW 13.40.210.

(d) If a person placed in community transition services under this section violates a condition of participation in the community transition services program, or if the department determines that placement in the program is no longer in the best interests of the person or community, the person may be returned to an institution operated by the department at the department's discretion.

(e) The following persons are not eligible for community transition services under this section:

(i) Persons with pending charges or warrants;

(ii) Persons who will be transferred to the department of corrections, who are in the custody of the department of corrections, or who are under the supervision of the department of corrections;

(iii) Persons who were adjudicated or convicted of the crime of murder in the first or second degree;

(iv) Persons who meet the definition of a "persistent offender" as defined under RCW 9.94A.030;

(v) Level III sex offenders; and

(vi) Persons requiring out-of-state placement.

(14) The department shall design, or contract for the design, and implement a risk assessment tool. The tool must be designed to limit bias related to race, ethnicity, gender, and age. The risk assessment tool must be certified at least every three years based on current academic standards for assessment validation, and can be certified by the office of innovation, alignment, and accountability or an outside researcher.

Sec. 5. RCW 13.40.215 and 2020 c 167 s 7 are each amended

to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility or community transition services program, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside; and

(ii) The sheriff of the county in which the juvenile will reside.

(b)(i) Except as provided in subsection (2) of this section, at the earliest practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility or community transition services program, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense, is twenty-one years of age or younger, and has not received a high school diploma or its equivalent, to the designated recipient of the school where the juvenile either: (A) Was enrolled prior to incarceration or detention; or (B) has expressed an intention to enroll following his or her release. This notice must also include the restrictions described in subsection (5) of this section.

(ii) The community residential facility shall provide written notice of the offender's criminal history to the designated recipient of any school that the offender attends while residing at the community residential facility and to any employer that employs the offender while residing at the community residential facility.

(iii) As used in this subsection, "designated recipient" means: (A) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (B) the administrator of a charter public school governed by chapter 28A.710 RCW; or (C) the administrator of a private school approved under chapter 28A.195 RCW.

(c) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(d) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical furloughs.

(e) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2)(a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the

department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) Upon discharge, parole, transfer to a community residential facility, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public or approved private elementary, middle, or high school that is attended by a victim or a sibling of a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district.

(6) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;

(d) "Next of kin" means a person's spouse, parents, siblings, and children.

Sec. 6. RCW 13.40.220 and 2017 3rd sp. s. c 6 s 610 are each amended to read as follows:

(1) Whenever legal custody of a child is vested in someone other than his or her parents, under this chapter, and not vested in the department, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum representing in whole or in part the

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

costs of support, treatment, and confinement of the child after the decree is entered.

(2) If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against such person for contempt.

(3) Whenever legal custody of a child is vested in the department under this chapter, the parents or other persons legally obligated to care for and support the child shall be liable for the costs of support, treatment, and confinement of the child, in accordance with the department's reimbursement of cost schedule. The department shall adopt a reimbursement of cost schedule based on the costs of providing such services, and shall determine an obligation based on the responsible parents' or other legally obligated person's ability to pay. The department is authorized to adopt additional rules as appropriate to enforce this section.

(4) To enforce subsection (3) of this section, the department shall serve on the parents or other person legally obligated to care for and support the child a notice and finding of financial responsibility requiring the parents or other legally obligated person to appear and show cause in an adjudicative proceeding why the finding of responsibility and/or the amount thereof is incorrect and should not be ordered. This notice and finding shall relate to the costs of support, treatment, and confinement of the child in accordance with the department's reimbursement of cost schedule adopted under this section, including periodic payments to be made in the future. The hearing shall be held pursuant to chapter 34.05 RCW, the administrative procedure act, and the rules of the department.

(5) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the parent or legally obligated person by certified mail, return receipt requested. The receipt shall be prima facie evidence of service.

(6) If the parents or other legally obligated person objects to the notice and finding of financial responsibility, then an application for an adjudicative hearing may be filed within twenty days of the date of service of the notice. If an application for an adjudicative proceeding is filed, the presiding or reviewing officer shall determine the past liability and responsibility, if any, of the parents or other legally obligated person and shall also determine the amount of periodic payments to be made in the future. If the parents or other legally responsible person fails to file an application within twenty days, the notice and finding of financial responsibility shall become a final administrative order.

(7) Debts determined pursuant to this section are subject to collection action without further necessity of action by a presiding or reviewing officer. The department may collect the debt in accordance with RCW 43.20B.635, 43.20B.640, 74.20A.060, and 74.20A.070. The department shall exempt from payment parents receiving adoption support under RCW 74.13A.005 through 74.13A.080, parents eligible to receive adoption support under RCW 74.13A.085, and a parent or other legally obligated person when the parent or other legally obligated person, or such person's child, spouse, or spouse's child, was the victim of the offense for which the child was committed.

(8) An administrative order entered pursuant to this section shall supersede any court order entered prior to June 13, 1994.

(9) The department shall be subrogated to the right of the child and his or her parents or other legally responsible person to receive support payments for the benefit of the child from any parent or legally obligated person pursuant to a support order established by a superior court or pursuant to RCW 74.20A.055. The department's right of subrogation under this section is limited to the liability established in accordance with its cost schedule for

support, treatment, and confinement, except as addressed in subsection (10) of this section.

(10) Nothing in this section precludes the department from recouping such additional support payments from the child's parents or other legally obligated person as required to qualify for receipt of federal funds. The department may adopt such rules dealing with liability for recoupment of support, treatment, or confinement costs as may become necessary to entitle the state to participate in federal funds unless such rules would be expressly prohibited by law. If any law dealing with liability for recoupment of support, treatment, or confinement costs is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds, such conflicting law is declared to be inoperative solely to the extent of the conflict.

(11) This section does not apply to juveniles or young adults in a community transition services program.

NEW SECTION. Sec. 7. The department of children, youth, and families shall adopt rules, policies, and procedures as may be needed to implement a community transition services program required by this act, to include the following:

(1) Identification and regular monitoring of metrics of quality implementation for the community transition program, and regularly publishing outcome analyses for program participants; and

(2) Allowing for the use of new electronic home monitoring equipment and technologies as they become available that eliminate or minimize trauma, social stigma, and racial injustice, and imposing penalties for the knowing or intentional tampering, damaging, or destruction of equipment that renders it not fully functional.

NEW SECTION. Sec. 8. Subject to the availability of amounts appropriated for this specific purpose, the department of children, youth, and families may issue rental vouchers for a period not to exceed six months for those transferring to community transition services under this act if an approved address cannot be obtained without the assistance of a voucher.

Sec. 9. RCW 13.04.800 and 2019 c 322 s 5 are each amended to read as follows:

(1) The Washington state institute for public policy must:
 (a) Assess the impact of chapter 162, Laws of 2018, ~~(and)~~ sections 2 through 6, chapter 322, Laws of 2019, and sections 2 and 3, chapter . . . , Laws of 2021 (sections 2 and 3 of this act) on community safety, racial disproportionality, recidivism, state expenditures, and youth rehabilitation, to the extent possible; and
 (b) Conduct a cost-benefit analysis, including health impacts and recidivism effects, of extending RCW 72.01.410 to include all offenses committed under the age of twenty-one.

(2) The institute shall submit, in compliance with RCW 43.01.036, a preliminary report on the requirements listed in subsection (1) of this section to the governor and the appropriate committees of the legislature by December 1, 2023, and a final report to the governor and the appropriate committees of the legislature by December 1, 2031.

NEW SECTION. Sec. 10. (1) The secretary of the department of children, youth, and families, or the secretary's designee, shall convene a stakeholder group to develop recommendations regarding improving outcomes for individuals exiting juvenile rehabilitation with a focus on:

(a) Increasing community involvement before and after the individual's exit from a juvenile rehabilitation facility;

(b) A landscape analysis of community-based, reentry-related services available to individuals exiting a juvenile rehabilitation facility by geographic region and service type;

(c) Community-based, reentry-related service gaps that should be addressed to ensure a successful community transition services

program across the state.

(2) The secretary of the department of children, youth, and families, or the secretary's designee shall include, at a minimum, the following stakeholders in the requirements included in this section:

- (a) Two individuals who were or are currently confined in a juvenile rehabilitation facility;
- (b) A family member of an individual who was or is currently confined in a juvenile rehabilitation facility;
- (c) A representative of the Washington partnership council on juvenile justice;
- (d) A representative of the Washington association of prosecuting attorneys;
- (e) A representative of the Washington association of sheriffs and police chiefs;
- (f) A representative of a statewide organization representing criminal defense attorneys;
- (g) A representative of a statewide organization representing public defenders;
- (h) A representative of a statewide organization providing legal services to youth;
- (i) A representative from the office of the superintendent of public instruction;
- (j) A representative from the state board for community and technical colleges;
- (k) A representative from the health care authority;
- (l) A representative from the Washington student achievement council;
- (m) A representative from the Washington association of juvenile court administrators; and

(n) Two representatives from service providers that assist individuals when exiting from a juvenile rehabilitation facility by providing mentoring or other community involvement opportunities to that individual.

(3) The department of children, youth, and families shall provide administrative and staff support to the stakeholder group.

(4) Nonlegislative members of the stakeholder group who demonstrate financial hardship must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, as well as other expenses as needed for each day a nonlegislative stakeholder group member attends a stakeholder group meeting to provide consultative assistance.

(5)(a) By November 1, 2021, and in compliance with RCW 43.01.036, an initial report shall be submitted to the appropriate committees of the legislature and the governor related to improving outcomes for individuals exiting juvenile rehabilitation facilities.

(b) By June 1, 2022, the department of children, youth, and families shall submit a report to the appropriate committees of the legislature and the governor that describes recommendations related to improving outcomes for individuals exiting a juvenile rehabilitation facility as provided in this section.

(6) This section expires January 1, 2023.

NEW SECTION. Sec. 11. (1) Sections 1 through 6, 8, and 9 of this act take effect six months after the department of children, youth, and families designs and implements a risk assessment tool as defined in RCW 13.40.020 used to determine eligibility for "community transition services" as provided under RCW 13.40.205(13) and provides notice as required under subsection (2) of this section.

(2) The department of children, youth, and families must provide notice of the implementation of a risk assessment tool described under subsection (1) of this section to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department of children, youth, and families.

NEW SECTION. Sec. 12. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "rehabilitation;" strike the remainder of the title and insert "amending RCW 72.01.412, 13.40.020, 13.40.205, 13.40.215, 13.40.220, and 13.04.800; creating new sections; providing a contingent effective date; and providing an expiration date."

MOTION

Senator Rivers moved that the following floor amendment no. 815 by Senator Rivers be adopted:

On page 3, line 26, after "offenders;" strike "and"

On page 3, line 27, after "placement" insert "; and"

(g) Persons who used a firearm in the commission of their crime"

Senators Rivers and Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Darneille spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 815 by Senator Rivers on page 3, line 26 to Engrossed Second Substitute House Bill No. 1186.

The motion by Senator Rivers did not carry and floor amendment no. 815 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 816 by Senator Wagoner be adopted:

On page 3, line 26, after "offenders;" strike "and"

On page 3, line 27, after "placement" insert "; and"

(g) Persons who committed a violent offense and participation in the community transition services would result in the juvenile enrolling in the same high school as the victim of the crime"

Senators Wagoner, Fortunato, Honeyford and Rivers spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Darneille spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 816 by Senator Wagoner on page 3, line 26 to Engrossed Second Substitute House Bill No. 1186.

The motion by Senator Wagoner did not carry and floor amendment no. 816 was not 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 to Engrossed Second Substitute House Bill No. 1186.

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

MOTION

On motion of Senator Darneille, the rules were suspended, Engrossed Second Substitute House Bill No. 1186 was advanced to third reading, the second reading considered the third and the

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

bill was placed on final passage.

Senator Darneille spoke in favor of passage of the bill.

Senators Wagoner, King, Brown, Honeyford, Warnick, Wilson, L., Padden, Schoesler, Dozier, Short, Gildon, Sheldon, Rivers and Muzzall spoke against passage of the bill.

MOTION

On motion of Senator Wagoner, Senator Fortunato was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1186.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1186 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, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Hobbs

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1186, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1472, by House Committee on College & Workforce Development (originally sponsored by Slatter, Ortiz-Self, Sutherland, Goodman, Ormsby, Valdez, Eslick, Harris-Talley, Lekanoff, Pollet and Chopp)

Adding a graduate student to the student achievement council.

The measure was read the second time.

MOTION

On motion of Senator Randall, the rules were suspended, Substitute House Bill No. 1472 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Randall and Holy spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1472.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1472 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato,

Frockt, Gildon, Hasegawa, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Hobbs

SUBSTITUTE HOUSE BILL NO. 1472, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1139, by House Committee on Appropriations (originally sponsored by Pollet, Callan, Berg, Dolan, Ryu, Leavitt, Bronoske, Ramel, Ramos, Lekanoff, Stonier, Ortiz-Self, Frame, Goodman, Rule, Bergquist, Berry, Wylie, J. Johnson, Taylor and Valdez)

Taking action to address lead in drinking water.

The measure was read the second time.

MOTION

Senator Wellman moved that the following striking floor amendment no. 745 by Senator Wellman be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature recognizes that the United States environmental protection agency and centers for disease control and prevention acknowledge that there is no known safe level of lead in a child's blood. Even low levels of lead exposure can cause permanent cognitive, academic, and behavioral difficulties in children. The American academy of pediatrics recommends government action to ensure that the lead concentration in drinking water at schools does not exceed one part per billion.

(2) The legislature finds that the department of health sampled and tested drinking water outlets in 551 elementary schools between 2017 and 2020. 82 percent of these schools had lead contamination of five or more parts per billion in one or more drinking water outlets and 49 percent of these schools had lead contamination of 15 or more parts per billion in one or more drinking water outlets.

(3) The legislature acknowledges that the department of health was appropriated \$1,000,000 in the 2019-2021 fiscal biennium to continue the testing for lead contamination in school drinking water. The legislature also finds that the office of the superintendent of public instruction was appropriated funds in the 2019-2021 fiscal biennium for the healthy kids/healthy schools initiative. Part of these funds are for the purpose of distributing grants to school districts for remediation of elevated lead levels in drinking water. The legislature encourages districts to apply for these grants when lead test results reveal elevated lead levels, which are lead levels above five parts per billion.

(4) The legislature acknowledges the historically inequitable distribution of lead exposure for communities of color and of low socioeconomic status and plans to make a priority the protection of children from the dangers of lead exposure through school drinking water. The legislature, therefore, intends to require that drinking water outlets in elementary and secondary school buildings built, or with all plumbing replaced, before 2016 be

tested for the presence and level of lead contamination by June 30, 2026, and every five years thereafter. The legislature also intends to require that schools notify the school community of lead test results and develop action plans for remediation if test results exceed the health-based standard of five parts per billion.

(5) The legislature recognizes that the youngest children are the most vulnerable to lead exposure and that many of these children spend significant amounts of time at child care facilities.

(6) This act is named for the director of the Washington public interest research group who developed and advocated for this legislation before dying of cancer in 2019 and may be known as the Bruce Speight protect children from being exposed to lead in school drinking water act.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.210 RCW to read as follows:

(1) This section applies to schools with buildings built, or with all plumbing replaced, before 2016.

(2) With respect to sampling and testing for lead contamination at drinking water outlets, a school shall either:

(a) Cooperate with the department so that the department can conduct sampling and testing as required under section 3 of this act; or

(b) Contract for sampling and testing that meets the requirements of section 3 of this act and submit the test results to the department according to a procedure and deadlines determined by the department.

(3)(a) Except as provided in (b) of this subsection, a school shall communicate annually with students' families and staff about lead contamination in drinking water. The school shall consult with the department or a local health agency on the contents of the communication, which must include: The health effects of lead exposure; the website address of the most recent lead test results; and information about the school's plan for remedial action to reduce lead contamination in drinking water. Schools are encouraged to provide the communication as early in the school year as possible.

(b) The annual communication described under (a) of this subsection is not required if initial testing, or once postremediation testing, does not detect an elevated lead level at any drinking water outlet.

(4) As soon as practicable after receiving a lead test result that reveals a lead concentration that exceeds 15 parts per billion at a drinking water outlet, and until a lead contamination mitigation measure, such as use of a filter, is implemented, the school must shut off the water to the outlet.

(5)(a) For a lead test result that reveals an elevated lead level, as defined in subsection (7) of this section, at one or more drinking water outlets, the school's governing body shall adopt a school action plan in compliance with the requirements of this subsection.

(b) The school action plan must:

(i) Be developed in consultation with the department or a local health agency regarding the technical guidance, and with the office of the superintendent of public instruction regarding funding for remediation activities;

(ii) Describe mitigation measures implemented since the lead test result was received;

(iii) Include a schedule of remediation activities, including use of filters, that adhere to the technical guidance. The schedule may be based on the availability of state or federal funding for remediation activities; and

(iv) Include postremediation retesting to confirm that remediation activities have reduced lead concentrations at drinking water outlets to below the elevated lead level.

(c) The school action plan may include sampling and testing of the drinking water entering the school when the results of testing

for lead contamination at drinking water outlets within the school indicate that the infrastructure of the public water system is a documented significant contributor to the elevated lead levels.

(d) The school must provide the public with notice and opportunity to comment on the school action plan before it is adopted.

(e) If testing reveals that a significant contributor to lead contamination in school drinking water is the infrastructure operated by a public water system that is not a school water system, the school: (i) Is not financially responsible for remediating elevated lead levels in drinking water that passes through that infrastructure; (ii) must communicate with the public water system regarding its documented significant contribution to lead contamination in school drinking water and request from the public water system a plan for reducing the lead contamination; and (iii) may defer its remediation activities under (b) of this subsection until after the elevated lead level in the public water system's infrastructure is remediated and postremediation retesting does not detect an elevated lead level in the drinking water that passes through that infrastructure.

(f) The school action plan adoption deadlines are as follows:

(i) For lead test results received between July 1, 2014, and the effective date of this section, for which a school did not take remedial action or for which postremediation retesting has not confirmed that the elevated lead level has been reduced to five or fewer parts per billion, the school shall provide notice of elevated lead levels in the communication required under subsection (3) of this section and the school's governing body shall adopt an action plan by March 31, 2022; and

(ii) For lead test results received after the effective date of this section, the school's governing body shall adopt an action plan within six months of receipt.

(g) A school's governing body may adopt an update to an existing school action plan, rather than adopting a new school action plan, in order to address additional lead test results that reveal elevated lead levels at drinking water outlets, coordinate remediation activities at multiple buildings, or adjust the schedule of remediation activities.

(6) A school must post on a public website the most recent results of testing for lead contamination at drinking water outlets, no later than the time that the proposed school action plan is made publicly available, under subsection (5)(d) of this section.

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

(a) "Department" means the department of health.

(b) "Drinking water" means any water that students have access to where it is reasonably foreseeable that the water may be used for drinking, cooking, or food preparation.

(c) "Drinking water outlet" or "outlet" means any end point for delivery of drinking water, for example a tap, faucet, or fountain.

(d) "Elevated lead level" means a lead concentration in drinking water that exceeds five parts per billion, unless a lower concentration is specified by the state board of health in rule in accordance with section 6 of this act.

(e) "Public water system" has the same meaning as in RCW 70A.120.020.

(f) "School" means a school district and the common schools, as defined in RCW 28A.150.020, within the district; a charter school established under chapter 28A.710 RCW; or the state school for the blind or the state school for the deaf established under RCW 72.40.010.

(g) "Technical guidance" means the technical guidance for reducing lead in drinking water at schools issued by the United States environmental protection agency until the department complies with section 5 of this act when the term means the technical guidance developed by the department.

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

NEW SECTION. Sec. 3. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department shall conduct sampling and testing for lead contamination at drinking water outlets in school buildings built, or with all plumbing replaced, before 2016 as specified in this section. The department meets the requirements of this section when a school contracts for sampling and testing that meets the requirements of this section and submits the test results to the department according to a procedure and deadlines determined by the department.

(2) Sampling and testing for the presence and level of lead in drinking water must meet the technical requirements described in the technical guidance.

(3)(a) Initial testing for lead contamination in drinking water must be conducted between July 1, 2014, and June 30, 2026.

(b) Retesting for lead contamination in drinking water must be conducted no less than every five years beginning July 1, 2026.

(4)(a) The department shall develop and publish a two-year plan for sampling and testing. The plan must be updated at least annually. Prior to adding a school to the plan, the department must contact the school to determine whether the school has contracted, or is planning to contract, for sampling and testing.

(b) Beginning July 1, 2026, in developing the two-year plan for sampling and testing, the department must group school buildings by governing body and then prioritize the groups based on the combined length of time since each school building built, or with all plumbing replaced, before 2016 was sampled and tested.

(5) The department shall enter a data-sharing agreement with the office of the superintendent of public instruction for the purpose of compiling a list of school buildings built, or with all plumbing replaced, before 2016.

(6) The definitions in section 2 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. Sec. 4. A new section is added to chapter 43.70 RCW to read as follows:

The department shall allow state-tribal compact schools established under chapter 28A.715 RCW to opt into sampling and testing for lead contamination at drinking water outlets in school buildings built, or with all plumbing replaced, before 2016 pursuant to section 3 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

The department shall develop and make available technical guidance for reducing lead contamination in drinking water at schools that is at least as protective of student health as any technical guidance on this topic issued by the United States environmental protection agency. The technical guidance must include the technical requirements for sampling, processing, and analysis, including that analysis must be conducted by a laboratory accredited by the department of ecology. The technical guidance must describe best practices for remediating elevated lead levels at drinking water outlets in schools. Best practices must include installing and maintaining filters certified by a body accredited by the American national standards institute. Provisions of the technical guidance related to testing for the presence and level of lead in drinking water, as opposed to testing to identify sources of lead for remediation, must be designed to maximize detection of lead in water, and therefore must prohibit sampling or analytical methods that tend to mask lead contamination, including prestagnation flushing and removal of aerators prior to sampling.

NEW SECTION. Sec. 6. A new section is added to chapter 43.20 RCW to read as follows:

After July 1, 2030, the state board may, by rule, define "elevated lead level" at a concentration of five or fewer parts per

billion if scientific evidence supports a lower concentration as having the potential for further reducing the health effects of lead contamination in drinking water.

NEW SECTION. Sec. 7. A new section is added to chapter 43.70 RCW to read as follows:

(1) To the fullest extent permitted by federal law, the department, rather than community water systems, is designated as the lead or principal agency in regard to lead in drinking water sampling, testing, notification, remediation, public education, and other actions at public and private elementary and secondary schools as required by the federal lead and copper rule, 40 C.F.R. Part 141.

(2) The department must issue a written waiver that exempts community water systems that serve schools from the sampling and testing requirements of 40 C.F.R. Part 141.92 related to schools if the department determines that the mandatory requirements for sampling and testing for, and remediation of, lead contamination in drinking water outlets at elementary and secondary schools under this act are consistent with the requirements in 40 C.F.R. Part 141.92 of the federal lead and copper rule.

NEW SECTION. Sec. 8. This act may be known and cited as the Bruce Speight protect children from being exposed to lead in school drinking water act.

NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "water;" strike the remainder of the title and insert "adding a new section to chapter 28A.210 RCW; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.20 RCW; and creating new sections."

Senators Wellman and Hawkins spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 745 by Senator Wellman to Engrossed Second Substitute House Bill No. 1139.

The motion by Senator Wellman carried and striking floor amendment no. 745 was adopted by voice vote.

MOTION

On motion of Senator Wellman, the rules were suspended, Engrossed Second Substitute House Bill No. 1139, 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 Wellman, Hawkins, Rivers, Fortunato, Muzzall, Wagoner and Wilson, J. spoke in favor of passage of the bill.

Senators Schoesler and Honeyford spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1139 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1139, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall,

Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Hobbs

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1139, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1161, by House Committee on Appropriations (originally sponsored by Peterson, Davis, Pollet and Thai)

Modifying the requirements for drug take-back programs.

The measure was read the second time.

MOTION

On motion of Senator Cleveland, the rules were suspended, Second Substitute House Bill No. 1161 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland, Muzzall, Wilson, J., Rivers and Dozier spoke in favor of passage of the bill.

Senator Honeyford spoke on passage of the bill.

MOTION

On motion of Senator Liias, further consideration of Second Substitute House Bill No. 1161 was deferred and the bill held its place on the third reading calendar.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1152, by House Committee on Appropriations (originally sponsored by Riccelli, Leavitt, Stonier, Ormsby, Lekanoff, Pollet, Bronoske and Bateman)

Supporting measures to create comprehensive public health districts. Revised for 2nd Substitute: Establishing comprehensive health services districts.

The measure was read the second time.

MOTION

Senator Randall 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:

"NEW SECTION. Sec. 1. The legislature finds that everyone in Washington state, no matter what community they live in, should be able to rely on a public health system that is able to support a standard level of public health service. Like public safety, there is a foundational level of public health delivery that must exist everywhere for services to work. A strong public health system is only possible with intentional investments into our state's public health system. Services should be delivered efficiently, equitably, and effectively, in ways that make the best

use of technology, science, expertise, and leveraged resources and in a manner that is responsive to local communities.

NEW SECTION. Sec. 2. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department shall convene a foundational public health services steering committee. The steering committee must include members representing the department, the state board of health, federally recognized Indian tribes, and a state association representing local health jurisdictions. The department, state board of health, federally recognized Indian tribes, and a state association representing local health jurisdictions may each select the members to represent their agency or organization and each may select a cochair. The department, federally recognized Indian tribes, and a state association representing local health jurisdictions must have an equal number of members represented on the steering committee. The maximum number of voting steering committee members is 24.

(2) The foundational public health services steering committee shall make recommendations to the public health advisory board to:

(a) Define the purpose and functions of the regional shared service centers, including:

(i) The duties and role of the regional shared service centers;

(ii) The potential services the regional shared service centers may provide;

(iii) The process for establishing regional shared service centers; and

(iv) How regional shared service centers should coordinate between other regional centers, local health jurisdictions and staff, tribes, and the department in planning and implementing shared services;

(b) Recommend the role and duties of the foundational public health services regional coordinator;

(c) Identify the range of potential shared services coordinated or delivered through regional shared service centers;

(d) Determine the location of the four regional shared service centers, splitting the regional shared service centers evenly east and west of the Cascades;

(e) Identify and develop foundational public health services funding recommendations that promote new service delivery models which consider burden of disease and population measures and leverage technical expertise to support local capacity building and centralized infrastructure;

(f) Develop standards and performance measures that the governmental public health system should meet; and

(g) Identify, if necessary, other personnel needed for regional shared service centers.

(3) Staff support for the foundational public health services steering committee must be provided by the department.

(4) Members of the foundational public health services steering committee that represent local health jurisdictions and federally recognized Indian tribes must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. However, members that represent local health jurisdictions and federally recognized Indian tribes who travel fewer than 100 miles to attend a meeting are not eligible for state reimbursement under this section.

NEW SECTION. Sec. 3. A new section is added to chapter 43.70 RCW to read as follows:

(1) The public health advisory board is established within the department. The advisory board shall:

(a) Advise and provide feedback to the governmental public health system and provide formal public recommendations on public health;

(b) Monitor the performance of the governmental public health system;

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

(c) Develop goals and a direction for public health in Washington and provide recommendations to improve public health performance and to achieve the identified goals and direction;

(d) Advise and report to the secretary;

(e) Coordinate with the governor's office, department, state board of health, and the secretary;

(f) Monitor the foundational public health services steering committee's performance and provide recommendations to the steering committee;

(g) Evaluate public health emergency response and provide recommendations for future response, including coordinating with relevant committees, task forces, and stakeholders to analyze the COVID-19 public health response;

(h) Approve funding prioritization recommendations from the steering committee;

(i) Evaluate the use of foundational public health services funding by the governmental public health system;

(j) Apply the standards and performance measures developed by the foundational public health services steering committee to the governmental public health system; and

(k) Review and approve recommendations from the foundational public health services steering committee.

(2) The public health advisory board shall consist of a representative from each of the following appointed by the governor:

(a) The governor's office;

(b) The director of the state board of health or the director's designee;

(c) The secretary of the department or the secretary's designee;

(d) The chair of the governor's interagency council on health disparities;

(e) Two representatives from the tribal government public health sector selected by the American Indian health commission;

(f) One eastern Washington county commissioner selected by a statewide association representing counties;

(g) One western Washington county commissioner selected by a statewide association representing counties;

(h) An organization representing businesses in a region of the state;

(i) A statewide association representing community and migrant health centers;

(j) A statewide association representing Washington cities;

(k) A local health official selected by a statewide association representing Washington local public health officials;

(l) A statewide association representing Washington hospitals;

(m) A statewide association representing Washington physicians;

(n) A statewide association representing Washington nurses;

(o) A statewide association representing Washington public health or public health professionals; and

(p) A consumer nonprofit organization representing marginalized populations.

(3) In addition to the members of the public health advisory board listed in subsection (2) of this section, there must be four nonvoting ex officio members from the legislature consisting of one legislator from each of the two largest caucuses in both the house of representatives and the senate.

(4) Staff support for the public health advisory board, including arranging meetings, must be provided by the department.

(5) Legislative members of the public health advisory board may be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are

participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(6) The public health advisory board is a class one group under chapter 43.03 RCW.

Sec. 4. RCW 43.70.515 and 2019 c 14 s 2 are each amended to read as follows:

(1) With any state funding of foundational public health services, the state expects that measurable benefits will be realized to the health of communities in Washington as a result of the improved capacity of the governmental public health system. Close coordination and sharing of services are integral to increasing system capacity.

(2)(a) ((Funding)) Except as provided in (c) of this subsection, funding for foundational public health services shall be appropriated to the office of financial management. The office of financial management may only allocate funding to the department if the department, after consultation with federally recognized Indian tribes pursuant to chapter 43.376 RCW, jointly certifies with a state association representing local health jurisdictions and the state board of health, to the office of financial management that they are in agreement on the distribution and uses of state foundational public health services funding across the public health system.

(b) If joint certification is provided, the department shall distribute foundational public health services funding according to the agreed-upon distribution and uses. If joint certification is not provided, appropriations for this purpose shall lapse.

(c) For the 2021-2023 biennium, of amounts appropriated for foundational public health services funding that exceeds \$60,000,000 per biennium, the governmental public health systems must allocate 65 percent to new service delivery models. All federal money received by the state to support the COVID-19 pandemic response and allocated to support new service delivery models must be included when calculating the required funding for new service delivery models.

(3) By October 1, 2020, the department, in partnership with sovereign tribal nations, local health jurisdictions, and the state board of health, shall report on:

(a) Service delivery models, and a plan for further implementation of successful models;

(b) Changes in capacity of the governmental public health system; and

(c) Progress made to improve health outcomes.

(4) For purposes of this section:

(a) "Foundational public health services" means a limited statewide set of defined public health services within the following areas:

(i) Control of communicable diseases and other notifiable conditions;

(ii) Chronic disease and injury prevention;

(iii) Environmental public health;

(iv) Maternal, child, and family health;

(v) Access to and linkage with medical, oral, and behavioral health services;

(vi) Vital records; and

(vii) Cross-cutting capabilities, including:

(A) Assessing the health of populations;

(B) Public health emergency planning;

(C) Communications;

(D) Policy development and support;

(E) Community partnership development; and

(F) Business competencies.

(b) "Governmental public health system" means the state department of health, state board of health, local health

jurisdictions, regional comprehensive public health district centers, sovereign tribal nations, and Indian health programs located within Washington.

(c) "Indian health programs" means tribally operated health programs, urban Indian health programs, tribal epidemiology centers, the American Indian health commission for Washington state, and the Northwest Portland area Indian health board.

(d) "Local health jurisdictions" means a public health agency organized under chapter 70.05, 70.08, or 70.46 RCW.

(e) "Regional comprehensive public health district centers" or "regional shared service centers" means a center established under section 6 of this act to provide coordination and the delivery of shared public health services across the state in order to support the governmental public health system.

(f) "Service delivery models" means a systematic sharing of resources and function among state and local governmental public health entities, sovereign tribal nations, and Indian health programs to increase capacity and improve efficiency and effectiveness.

NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

(1) Beginning October 1, 2023, and annually thereafter, the department, in consultation with federally recognized Indian tribes, local health jurisdictions, and the state board of health, shall submit to the appropriate committees of the legislature, the governor, and the public health advisory board a report of the distribution of foundational public health services funding as provided in RCW 43.70.515. The report must contain:

(a) A statement of the funds provided to the governmental public health system for the purpose of funding foundational public health services under RCW 43.70.515;

(b) A description of how the funds received by the governmental public health system were distributed and used; and

(c) The level of work funded for each foundational public health service and the progress of the governmental public health system in meeting standards and performance measures developed by the foundational public health services steering committee.

(2) The public health advisory board shall, each October 1st, make recommendations to the department, the foundational public health services steering committee, the legislature, and governor on the priorities for the governmental public health system and foundational public health services funding.

NEW SECTION. Sec. 6. A new section is added to chapter 70.05 RCW to read as follows:

(1) Four regional comprehensive public health district centers are established to coordinate shared services for the governmental public health system. The four regional comprehensive public health district centers must be split evenly between the east side of the Cascades and the west side of the Cascades and administered as determined by the foundational public health services steering committee established in section 2 of this act.

(2) In addition to the duties and role of the regional comprehensive public health district centers determined by the foundational public health services steering committee authorized in section 2 of this act, the district centers may:

(a) Coordinate shared services across the governmental public health system;

(b) Provide public health services;

(c) Conduct an inventory of all current shared service agreements, both formal and informal, in the region;

(d) Identify potential shared services for the region; and

(e) Analyze options and alternatives for the implementation of shared service delivery across the region.

(3) Each regional comprehensive public health district center must have a foundational public health services regional

coordinator. The regional coordinator must be an employee of the department. To the extent feasible, the department must give preference to candidates for the regional coordinator that are able to work out of the regional comprehensive public health district center that the coordinator will be assigned.

(4) By January 1, 2024, counties must establish a formal contractual relationship with one primary regional comprehensive public health district center that is on the same side of the Cascades as the county. A county may enter into formal or informal relationships with other regional comprehensive public health district centers. Federally recognized Indian tribes and 501(c)(3) organizations registered in Washington that serve American Indian and Alaska Native people within Washington may enter into formal or informal relationships with regional comprehensive public health district centers.

NEW SECTION. Sec. 7. A new section is added to chapter 43.70 RCW to read as follows:

(1) The position of regional health officer is created within the department. The regional health officers are deputies of the state health officer. The secretary shall appoint four regional health officers. One regional health officer west of the Cascades and one regional health officer east of the Cascades must be appointed by January 1, 2023. To the extent feasible, the secretary must give preference to candidates for the regional health officer who are able to work out of the regional comprehensive public health district center that the candidate will be assigned.

(2) Regional health officers may:

(a) Work in partnership with local health jurisdictions, the department, the state board of health, and federally recognized Indian tribes to provide coordination across counties;

(b) Provide support to local health officers and serve as an alternative for local health officers during vacations, emergencies, and vacancies; and

(c) Provide mentorship and training to new local health officers.

(3) A regional health officer must meet the same qualifications as local health officers provided in RCW 70.05.050.

Sec. 8. RCW 70.05.030 and 1995 c 43 s 6 are each amended to read as follows:

((In counties without a home rule charter, the board of county commissioners shall constitute the local board of health, unless the county is part of a health district pursuant to chapter 70.46 RCW. The jurisdiction of the local board of health shall be coextensive with the boundaries of said county. The board of county commissioners may, at its discretion, adopt an ordinance expanding the size and composition of the board of health to include elected officials from cities and towns and persons other than elected officials as members so long as persons other than elected officials do not constitute a majority. An ordinance adopted under this section shall include provisions for the appointment, term, and compensation, or reimbursement of expenses.))

(1) Except as provided in subsection (2) of this section, for counties without a home rule charter, the board of county commissioners and the members selected under (a) and (e) of this subsection, shall constitute the local board of health, unless the county is part of a health district pursuant to chapter 70.46 RCW. The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under section 13 of this act:

(i) Public health, health care facilities, and providers. This

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

category consists of persons practicing or employed in the county who are:

(A) Medical ethicists;

(B) Epidemiologists;

(C) Experienced in environmental public health, such as a registered sanitarian;

(D) Community health workers;

(E) Holders of master's degrees or higher in public health or the equivalent;

(F) Employees of a hospital located in the county; or

(G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:

(I) Physicians or osteopathic physicians;

(II) Advanced registered nurse practitioners;

(III) Physician assistants or osteopathic physician assistants;

(IV) Registered nurses;

(V) Dentists;

(VI) Naturopaths; or

(VII) Pharmacists;

(ii) Consumers of public health. This category consists of county residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the county:

(A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the county;

(B) Active, reserve, or retired armed services members;

(C) The business community; or

(D) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the county, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the county, the board of health must include a tribal representative selected by the American Indian health commission.

(f) The board of county commissioners may, at its discretion, adopt an ordinance expanding the size and composition of the board of health to include elected officials from cities and towns and persons other than elected officials as members so long as the city and county elected officials do not constitute a majority of

the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, an ordinance adopted under this section shall include provisions for the appointment, term, and compensation, or reimbursement of expenses.

(h) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(i) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.

(j) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(k) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(l) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in section 12 of this act for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

Sec. 9. RCW 70.05.035 and 1995 c 43 s 7 are each amended to read as follows:

(In counties with a home rule charter, the county legislative authority shall establish a local board of health and may prescribe the membership and selection process for the board. The county legislative authority may appoint to the board of health elected officials from cities and towns and persons other than elected officials as members so long as persons other than elected officials do not constitute a majority. The county legislative authority shall specify the appointment, term, and compensation or reimbursement of expenses. The jurisdiction of the local board of health shall be coextensive with the boundaries of the county. The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.))

(1) Except as provided in subsection (2) of this section, for home rule charter counties, the county legislative authority shall establish a local board of health and may prescribe the membership and selection process for the board. The membership of the local board of health must also include the members selected under (a) and (e) of this subsection.

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under section 13 of this act:

(i) Public health, health care facilities, and providers. This category consists of persons practicing or employed in the county who are:

(A) Medical ethicists;

(B) Epidemiologists;

(C) Experienced in environmental public health, such as a registered sanitarian;

(D) Community health workers;

(E) Holders of master's degrees or higher in public health or the equivalent;

(F) Employees of a hospital located in the county; or

(G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:

(I) Physicians or osteopathic physicians;

(II) Advanced registered nurse practitioners;

(III) Physician assistants or osteopathic physician assistants;

(IV) Registered nurses;

(V) Dentists;

(VI) Naturopaths; or

(VII) Pharmacists;

(ii) Consumers of public health. This category consists of county residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the county:

(A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the county;

(B) Active, reserve, or retired armed services members;

(C) The business community; or

(D) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the county, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the county, the board of health must include a tribal representative selected by the American Indian health commission.

(f) The county legislative authority may appoint to the board of health elected officials from cities and towns and persons other than elected officials as members so long as the city and county elected officials do not constitute a majority of the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, the county legislative authority shall specify the appointment, term, and compensation or reimbursement of expenses.

(h) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(i) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the

provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.

(j) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(k) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(l) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in section 12 of this act for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

Sec. 10. RCW 70.46.020 and 1995 c 43 s 10 are each amended to read as follows:

((Health districts consisting of two or more counties may be created whenever two or more boards of county commissioners shall by resolution establish a district for such purpose. Such a district shall consist of all the area of the combined counties. The district board of health of such a district shall consist of not less than five members for districts of two counties and seven members for districts of more than two counties, including two representatives from each county who are members of the board of county commissioners and who are appointed by the board of county commissioners of each county within the district, and shall have a jurisdiction coextensive with the combined boundaries. The boards of county commissioners may by resolution or ordinance provide for elected officials from cities and towns and persons other than elected officials as members of the district board of health so long as persons other than elected officials do not constitute a majority. A resolution or ordinance adopted under this section must specify the provisions for the appointment, term, and compensation, or reimbursement of expenses. Any multicounty health district existing on the effective date of this act shall continue in existence unless and until changed by affirmative action of all boards of county commissioners or one or more counties withdraws [withdraw] pursuant to RCW 70.46.090.

At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.))

(1) Except as provided in subsection (2) of this section, health districts consisting of two or more counties may be created whenever two or more boards of county commissioners shall by resolution establish a district for such purpose. Such a district shall consist of all the area of the combined counties. The district board of health of such a district shall consist of not less than five members for districts of two counties and seven members for districts of more than two counties, including two representatives from each county who are members of the board of county commissioners and who are appointed by the board of county commissioners of each county within the district, and members selected under (a) and (e) of this subsection, and shall have a jurisdiction coextensive with the combined boundaries.

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under section 13 of this act:

(i) Public health, health care facilities, and providers. This category consists of persons practicing or employed in the health

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

district who are:

(A) Medical ethicists;

(B) Epidemiologists;

(C) Experienced in environmental public health, such as a registered sanitarian;

(D) Community health workers;

(E) Holders of master's degrees or higher in public health or the equivalent;

(F) Employees of a hospital located in the health district; or

(G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:

(I) Physicians or osteopathic physicians;

(II) Advanced registered nurse practitioners;

(III) Physician assistants or osteopathic physician assistants;

(IV) Registered nurses;

(V) Dentists;

(VI) Naturopaths; or

(VII) Pharmacists;

(ii) Consumers of public health. This category consists of health district residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials, and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the health district:

(A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the health district;

(B) Active, reserve, or retired armed services members;

(C) The business community; or

(D) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the health district, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the health district, the board of health must include a tribal representative selected by the American Indian health commission.

(f) The boards of county commissioners may by resolution or ordinance provide for elected officials from cities and towns and persons other than elected officials as members of the district board of health so long as the city and county elected officials do not constitute a majority of the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, a resolution or ordinance adopted under this section must specify the provisions for the appointment, term, and compensation, or reimbursement of expenses.

(h) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(i) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(j) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.

(k) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(1) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in section 12 of this act for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

Sec. 11. RCW 70.46.031 and 1995 c 43 s 11 are each amended to read as follows:

((A health district to consist of one county may be created whenever the county legislative authority of the county shall pass a resolution or ordinance to organize such a health district under chapter 70.05 RCW and this chapter.

The resolution or ordinance may specify the membership, representation on the district health board, or other matters relative to the formation or operation of the health district. The county legislative authority may appoint elected officials from cities and towns and persons other than elected officials as members of the health district board so long as persons other than elected officials do not constitute a majority.

Any single county health district existing on the effective date of this act shall continue in existence unless and until changed by affirmative action of the county legislative authority.))

(1) Except as provided in subsection (2) of this section, a health district to consist of one county may be created whenever the county legislative authority of the county shall pass a resolution or ordinance to organize such a health district under chapter 70.05 RCW and this chapter. The resolution or ordinance may specify the membership, representation on the district health board, or other matters relative to the formation or operation of the health district. In addition to the membership of the district health board determined through resolution or ordinance, the district health board must also include the members selected under (a) and (e) of this subsection.

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under section 13 of this act:

(i) Public health, health care facilities, and providers. This category consists of persons practicing or employed in the county who are:

(A) Medical ethicists;

(B) Epidemiologists;

(C) Experienced in environmental public health, such as a registered sanitarian;

(D) Community health workers;

(E) Holders of master's degrees or higher in public health or the equivalent;

(F) Employees of a hospital located in the county; or

(G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:

(I) Physicians or osteopathic physicians;

(II) Advanced registered nurse practitioners;

(III) Physician assistants or osteopathic physician assistants;

(IV) Registered nurses;

(V) Dentists;

(VI) Naturopaths; or

(VII) Pharmacists;

(ii) Consumers of public health. This category consists of county residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the county:

(A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the county;

(B) The business community; or

(C) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. If there are two members over the nearest multiple of three, each member over the nearest multiple of three must be selected from a different category. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the county, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the county, the board of health must include a tribal representative selected by the American Indian health commission.

(f) The county legislative authority may appoint elected officials from cities and towns and persons other than elected officials as members of the health district board so long as the city and county elected officials do not constitute a majority of the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, a resolution or ordinance adopted under this section must specify the provisions for the appointment, term, and compensation, or reimbursement of expenses.

(h) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(i) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the resolution or ordinance. The same official designated under the provisions of the resolution or ordinance may appoint an administrative officer, as described in RCW 70.05.045.

(j) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(k) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(l) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in section 12 of this act for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

NEW SECTION. Sec. 12. A new section is added to chapter 70.46 RCW to read as follows:

(1) A community health advisory board shall:

(a) Provide input to the local board of health in the recruitment and selection of an administrative officer, pursuant to RCW 70.05.045, and local health officer, pursuant to RCW 70.05.050;

(b) Use a health equity framework to conduct, assess, and identify the community health needs of the jurisdiction, and review and recommend public health policies and priorities for the local health jurisdiction and advisory board to address community health needs;

(c) Evaluate the impact of proposed public health policies and programs, and assure identified health needs and concerns are being met;

(d) Promote public participation in and identification of local public health needs;

(e) Provide community forums and hearings as assigned by the local board of health;

(f) Establish community task forces as assigned by the local board of health;

(g) Review and make recommendations to the local health jurisdiction and local board of health for an annual budget and fees; and

(h) Review and advise on local health jurisdiction progress in achieving performance measures and outcomes to ensure continuous quality improvement and accountability.

(2) The advisory board shall consist of nine to 21 members appointed by the local board of health. The local health officer and a member of the local board of health shall serve as ex officio members of the board.

(3) The advisory board must be broadly representative of the character of the community. Membership preference shall be given to tribal, racial, ethnic, and other minorities. The advisory board must consist of a balance of members with expertise, career experience, and consumer experience in areas impacting public health and with populations served by the health department. The board's composition shall include:

(a) Members with expertise in and experience with:

(i) Health care access and quality;

(ii) Physical environment, including built and natural environments;

(iii) Social and economic sectors, including housing, basic

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

needs, education, and employment;

- (iv) Business and philanthropy;
- (v) Communities that experience health inequities;
- (vi) Government; and
- (vii) Tribal communities and tribal government.

(b) Consumers of public health services;

(c) Community members with lived experience in any of the areas listed in (a) of this subsection; and

(d) Community stakeholders, including nonprofit organizations, the business community, and those regulated by public health.

(4) The local health jurisdiction and local board of health must actively recruit advisory board members in a manner that solicits broad diversity to assure representation from marginalized communities including tribal, racial, ethnic, and other minorities.

(5) Advisory board members shall serve for staggered three-year terms. This does not preclude any member from being reappointed.

(6) The advisory board shall, at the first meeting of each year, select a chair and vice chair. The chair shall preside over all advisory board meetings and work with the local health jurisdiction administrator, or their designee, to establish board meeting agendas.

(7) Staffing for the advisory board shall be provided by the local health jurisdiction.

(8) The advisory board shall hold meetings monthly, or as otherwise determined by the advisory board at a place and time to be decided by the advisory board. Special meetings may be held on call of the local board of health or the chairperson of the advisory board.

(9) Meetings of the advisory board are subject to the open public meetings act, chapter 42.30 RCW, and meeting minutes must be submitted to the local board of health.

NEW SECTION. Sec. 13. A new section is added to chapter 43.20 RCW to read as follows:

(1) The state board of health shall adopt rules establishing the appointment process for the members of local boards of health who are not elected officials. The selection process established by the rules must:

(a) Be fair and unbiased; and

(b) Ensure, to the extent practicable, that the membership of local boards of health include a balanced representation of elected officials and nonelected people with a diversity of expertise and lived experience.

(2) The rules adopted under this section must go into effect no later than one year after the effective date of this section.

Sec. 14. RCW 70.05.130 and 1993 c 492 s 242 are each amended to read as follows:

All expenses incurred by the state, health district, or county in carrying out the provisions of ((chapters 70.05 and)) this chapter and chapter 70.46 RCW or any other public health law, ((or)) the rules of the department of health enacted under such laws, or enforcing proclamations of the governor during a public health emergency, shall be paid by the county and such expenses shall constitute a claim against the general fund as provided in this section.

Sec. 15. RCW 70.08.100 and 1949 c 46 s 10 are each amended to read as follows:

(1) Agreement to operate a combined city and county health department made under this chapter may after two years from the date of such agreement, be terminated by either party at the end of any calendar year upon notice in writing given at least ((six)) 12 months prior thereto. The termination of such agreement shall not relieve either party of any obligations to which it has been previously committed.

(2) Before terminating such an agreement, the terminating party shall:

(a) Provide 12 months' notice and a meaningful opportunity for the public to comment on the termination including, but not limited to, at least two public meetings held at different locations within the county and the county and city must jointly conduct a third public meeting within the boundaries of the partner city; and

(b) Participate in good faith in a mediation process with any affected county, city, or town that objects to the termination. The mediator must be appointed by the state board of health and be paid for by the party seeking termination.

Sec. 16. RCW 70.46.090 and 1993 c 492 s 251 are each amended to read as follows:

(1) Any county may withdraw from membership in said health district any time after it has been within the district for a period of two years, but no withdrawal shall be effective except at the end of the calendar year in which the county gives at least ((six)) 12 months' notice of its intention to withdraw at the end of the calendar year. No withdrawal shall entitle any member to a refund of any moneys paid to the district nor relieve it of any obligations to pay to the district all sums for which it obligated itself due and owing by it to the district for the year at the end of which the withdrawal is to be effective. Any county which withdraws from membership in said health district shall immediately establish a health department or provide health services which shall meet the standards for health services promulgated by the state board of health. No local health department may be deemed to provide adequate public health services unless there is at least one full time professionally trained and qualified physician as set forth in RCW 70.05.050.

(2) Before terminating such an agreement, the terminating party shall:

(a) Provide 12 months' notice and a meaningful opportunity for the public to comment on the termination including, but not limited to, at least two public meetings held at different locations within the health district; and

(b) Participate in good faith in a mediation process with any affected county, city, or town that objects to the termination. The mediator must be appointed by the state board of health and be paid for by the party seeking termination.

NEW SECTION. Sec. 17. A new section is added to chapter 43.70 RCW to read as follows:

The department may adopt rules necessary to implement this act.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1)RCW 43.70.060 (Duties of department—Promotion of health care cost-effectiveness) and 1989 1st ex.s. c 9 s 108;

(2)RCW 43.70.064 (Health care quality—Findings and intent—Requirements for conducting study under RCW 43.70.066) and 1995 c 267 s 3;

(3)RCW 43.70.066 (Study—Uniform quality assurance and improvement program—Reports to legislature—Limitation on rule making) and 1998 c 245 s 72, 1997 c 274 s 3, & 1995 c 267 s 4;

(4)RCW 43.70.068 (Quality assurance—Interagency cooperation) and 1997 c 274 s 4 & 1995 c 267 s 5; and

(5)RCW 43.70.070 (Duties of department—Analysis of health services) and 1995 c 269 s 2202 & 1989 1st ex.s. c 9 s 109.

NEW SECTION. Sec. 19. Sections 8 through 11 of this act take effect July 1, 2023.

NEW SECTION. Sec. 20. If at least \$60,000,000 is not appropriated for the purposes of foundational public health services by June 30, 2021, in the omnibus appropriations act, sections 2, 4 through 7, and 17 of this act are null and void."

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 43.70.515, 70.05.030, 70.05.035, 70.46.020, 70.46.031, 70.05.130, 70.08.100, and 70.46.090; adding new sections to chapter 43.70 RCW; adding a new section to chapter 70.05 RCW; adding a new section to chapter 70.46 RCW; adding a new section to chapter 43.20 RCW; creating new sections; repealing RCW 43.70.060, 43.70.064, 43.70.066, 43.70.068, and 43.70.070; and providing an effective date."

The President declared the question before the Senate to be to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1152.

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

MOTION

Senator Randall moved that the following striking floor amendment no. 820 by Senator Randall be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that everyone in Washington state, no matter what community they live in, should be able to rely on a public health system that is able to support a standard level of public health service. Like public safety, there is a foundational level of public health delivery that must exist everywhere for services to work. A strong public health system is only possible with intentional investments into our state's public health system. Services should be delivered efficiently, equitably, and effectively, in ways that make the best use of technology, science, expertise, and leveraged resources and in a manner that is responsive to local communities.

NEW SECTION. Sec. 2. A new section is added to chapter 43.70 RCW to read as follows:

(1) The public health advisory board is established within the department. The advisory board shall:

(a) Advise and provide feedback to the governmental public health system and provide formal public recommendations on public health;

(b) Monitor the performance of the governmental public health system;

(c) Develop goals and a direction for public health in Washington and provide recommendations to improve public health performance and to achieve the identified goals and direction;

(d) Advise and report to the secretary;

(e) Coordinate with the governor's office, department, state board of health, and the secretary;

(f) Evaluate public health emergency response and provide recommendations for future response, including coordinating with relevant committees, task forces, and stakeholders to analyze the COVID-19 public health response; and

(g) Evaluate the use of foundational public health services funding by the governmental public health system.

(2) The public health advisory board shall consist of representatives from each of the following appointed by the governor:

(a) The governor's office;

(b) The director of the state board of health or the director's designee;

(c) The secretary of the department or the secretary's designee;

(d) The chair of the governor's interagency council on health

disparities;

(e) Two representatives from the tribal government public health sector selected by the American Indian health commission;

(f) One member of the county legislative authority from a eastern Washington county selected by a statewide association representing counties;

(g) One member of the county legislative authority from a western Washington county selected by a statewide association representing counties;

(h) An organization representing businesses in a region of the state;

(i) A statewide association representing community and migrant health centers;

(j) A statewide association representing Washington cities;

(k) Four representatives from local health jurisdictions selected by a statewide association representing local public health officials, including one from a jurisdiction east of the Cascade mountains, one from a jurisdiction west of the Cascade mountains with a population under 800,000, one from a jurisdiction with a population between 200,000 and 600,000, and one from a jurisdiction with a population under 200,000;

(l) A statewide association representing Washington hospitals;

(m) A statewide association representing Washington physicians;

(n) A statewide association representing Washington nurses;

(o) A statewide association representing Washington public health or public health professionals; and

(p) A consumer nonprofit organization representing marginalized populations.

(3) In addition to the members of the public health advisory board listed in subsection (2) of this section, there must be four nonvoting ex officio members from the legislature consisting of one legislator from each of the two largest caucuses in both the house of representatives and the senate.

(4) Staff support for the public health advisory board, including arranging meetings, must be provided by the department.

(5) Legislative members of the public health advisory board may be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(6) The public health advisory board is a class one group under chapter 43.03 RCW.

Sec. 3. RCW 70.05.030 and 1995 c 43 s 6 are each amended to read as follows:

~~(In counties without a home rule charter, the board of county commissioners shall constitute the local board of health, unless the county is part of a health district pursuant to chapter 70.46 RCW. The jurisdiction of the local board of health shall be coextensive with the boundaries of said county. The board of county commissioners may, at its discretion, adopt an ordinance expanding the size and composition of the board of health to include elected officials from cities and towns and persons other than elected officials as members so long as persons other than elected officials do not constitute a majority. An ordinance adopted under this section shall include provisions for the appointment, term, and compensation, or reimbursement of expenses.)~~

(1) Except as provided in subsection (2) of this section, for counties without a home rule charter, the board of county commissioners and the members selected under (a) and (e) of this subsection, shall constitute the local board of health, unless the county is part of a health district pursuant to chapter 70.46 RCW. The jurisdiction of the local board of health shall be coextensive

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

with the boundaries of the county.

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under section 8 of this act:

(i) Public health, health care facilities, and providers. This category consists of persons practicing or employed in the county who are:

(A) Medical ethicists;

(B) Epidemiologists;

(C) Experienced in environmental public health, such as a registered sanitarian;

(D) Community health workers;

(E) Holders of master's degrees or higher in public health or the equivalent;

(F) Employees of a hospital located in the county; or

(G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:

(I) Physicians or osteopathic physicians;

(II) Advanced registered nurse practitioners;

(III) Physician assistants or osteopathic physician assistants;

(IV) Registered nurses;

(V) Dentists;

(VI) Naturopaths; or

(VII) Pharmacists;

(ii) Consumers of public health. This category consists of county residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the county:

(A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the county;

(B) Active, reserve, or retired armed services members;

(C) The business community; or

(D) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the county, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the county, the board of health must include a tribal

representative selected by the American Indian health commission.

(f) The board of county commissioners may, at its discretion, adopt an ordinance expanding the size and composition of the board of health to include elected officials from cities and towns and persons other than elected officials as members so long as the city and county elected officials do not constitute a majority of the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, an ordinance adopted under this section shall include provisions for the appointment, term, and compensation, or reimbursement of expenses.

(h) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(i) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.

(j) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(k) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(l) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in section 7 of this act for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

Sec. 4. RCW 70.05.035 and 1995 c 43 s 7 are each amended to read as follows:

~~(In counties with a home rule charter, the county legislative authority shall establish a local board of health and may prescribe the membership and selection process for the board. The county legislative authority may appoint to the board of health elected officials from cities and towns and persons other than elected officials as members so long as persons other than elected officials do not constitute a majority. The county legislative authority shall specify the appointment, term, and compensation or reimbursement of expenses. The jurisdiction of the local board of health shall be coextensive with the boundaries of the county. The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.)~~

(1) Except as provided in subsection (2) of this section, for home rule charter counties, the county legislative authority shall establish a local board of health and may prescribe the membership and selection process for the board. The membership of the local board of health must also include the members selected under (a) and (e) of this subsection.

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under section 8 of this act:

(i) Public health, health care facilities, and providers. This

category consists of persons practicing or employed in the county who are:

- (A) Medical ethicists;
- (B) Epidemiologists;
- (C) Experienced in environmental public health, such as a registered sanitarian;
- (D) Community health workers;
- (E) Holders of master's degrees or higher in public health or the equivalent;
- (F) Employees of a hospital located in the county; or
- (G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:
 - (I) Physicians or osteopathic physicians;
 - (II) Advanced registered nurse practitioners;
 - (III) Physician assistants or osteopathic physician assistants;
 - (IV) Registered nurses;
 - (V) Dentists;
 - (VI) Naturopaths; or
 - (VII) Pharmacists;

(ii) Consumers of public health. This category consists of county residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the county:

- (A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the county;
- (B) Active, reserve, or retired armed services members;
- (C) The business community; or
- (D) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the county, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the county, the board of health must include a tribal representative selected by the American Indian health commission.

(f) The county legislative authority may appoint to the board of health elected officials from cities and towns and persons other than elected officials as members so long as the city and county elected officials do not constitute a majority of the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, the

county legislative authority shall specify the appointment, term, and compensation or reimbursement of expenses.

(h) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(i) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.

(j) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(k) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(l) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in section 7 of this act for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

Sec. 5. RCW 70.46.020 and 1995 c 43 s 10 are each amended to read as follows:

~~(Health districts consisting of two or more counties may be created whenever two or more boards of county commissioners shall by resolution establish a district for such purpose. Such a district shall consist of all the area of the combined counties. The district board of health of such a district shall consist of not less than five members for districts of two counties and seven members for districts of more than two counties, including two representatives from each county who are members of the board of county commissioners and who are appointed by the board of county commissioners of each county within the district, and shall have a jurisdiction coextensive with the combined boundaries. The boards of county commissioners may by resolution or ordinance provide for elected officials from cities and towns and persons other than elected officials as members of the district board of health so long as persons other than elected officials do not constitute a majority. A resolution or ordinance adopted under this section must specify the provisions for the appointment, term, and compensation, or reimbursement of expenses. Any multicounty health district existing on the effective date of this act shall continue in existence unless and until changed by affirmative action of all boards of county commissioners or one or more counties withdraws [withdraw] pursuant to RCW 70.46.090.~~

~~At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.)~~

(1) Except as provided in subsections (2) and (3) of this section, health districts consisting of two or more counties may be created whenever two or more boards of county commissioners shall by resolution establish a district for such purpose. Such a district shall consist of all the area of the combined counties. The district board of health of such a district shall consist of not less than five members for districts of two counties and seven members for districts of more than two counties, including two representatives from each county who are members of the board of county commissioners and who are appointed by the board of county commissioners of each county within the district, and members selected under (a) and (e) of this subsection, and shall have a jurisdiction coextensive with the combined boundaries.

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under section 8 of this act:

(i) Public health, health care facilities, and providers. This category consists of persons practicing or employed in the health district who are:

(A) Medical ethicists;

(B) Epidemiologists;

(C) Experienced in environmental public health, such as a registered sanitarian;

(D) Community health workers;

(E) Holders of master's degrees or higher in public health or the equivalent;

(F) Employees of a hospital located in the health district; or

(G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:

(I) Physicians or osteopathic physicians;

(II) Advanced registered nurse practitioners;

(III) Physician assistants or osteopathic physician assistants;

(IV) Registered nurses;

(V) Dentists;

(VI) Naturopaths; or

(VII) Pharmacists;

(ii) Consumers of public health. This category consists of health district residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials, and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the health district:

(A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the health district;

(B) Active, reserve, or retired armed services members;

(C) The business community; or

(D) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the health district, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the health district, the board of health must include a tribal

representative selected by the American Indian health commission.

(f) The boards of county commissioners may by resolution or ordinance provide for elected officials from cities and towns and persons other than elected officials as members of the district board of health so long as the city and county elected officials do not constitute a majority of the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, a resolution or ordinance adopted under this section must specify the provisions for the appointment, term, and compensation, or reimbursement of expenses.

(h) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(i) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(j) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.

(k) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(l) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in section 7 of this act for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

(3) A local board of health comprised solely of elected officials and made up of three counties east of the Cascade mountains may retain their current composition if the local health jurisdiction has a public health advisory committee or board that meets the requirements established in section 7 of this act for community health advisory boards by July 1, 2022. If such a local board of health does not establish the required community health advisory board by July 1, 2022, it must comply with the requirements of subsection (1) of this section. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

Sec. 6. RCW 70.46.031 and 1995 c 43 s 11 are each amended to read as follows:

~~(A health district to consist of one county may be created whenever the county legislative authority of the county shall pass a resolution or ordinance to organize such a health district under chapter 70.05 RCW and this chapter.~~

~~The resolution or ordinance may specify the membership, representation on the district health board, or other matters relative to the formation or operation of the health district. The county legislative authority may appoint elected officials from cities and towns and persons other than elected officials as members of the health district board so long as persons other than elected officials do not constitute a majority.~~

~~Any single county health district existing on the effective date of this act shall continue in existence unless and until changed by affirmative action of the county legislative authority.)~~

(1) Except as provided in subsection (2) of this section, a health district to consist of one county may be created whenever the county legislative authority of the county shall pass a resolution

or ordinance to organize such a health district under chapter 70.05 RCW and this chapter. The resolution or ordinance may specify the membership, representation on the district health board, or other matters relative to the formation or operation of the health district. In addition to the membership of the district health board determined through resolution or ordinance, the district health board must also include the members selected under (a) and (e) of this subsection.

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under section 8 of this act:

(i) Public health, health care facilities, and providers. This category consists of persons practicing or employed in the county who are:

(A) Medical ethicists;

(B) Epidemiologists;

(C) Experienced in environmental public health, such as a registered sanitarian;

(D) Community health workers;

(E) Holders of master's degrees or higher in public health or the equivalent;

(F) Employees of a hospital located in the county; or

(G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:

(I) Physicians or osteopathic physicians;

(II) Advanced registered nurse practitioners;

(III) Physician assistants or osteopathic physician assistants;

(IV) Registered nurses;

(V) Dentists;

(VI) Naturopaths; or

(VII) Pharmacists;

(ii) Consumers of public health. This category consists of county residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the county:

(A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the county;

(B) The business community; or

(C) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. If there are two members over the nearest multiple of three, each member over the nearest multiple of three must be selected from a different category. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the county, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the county, the board of health must include a tribal representative selected by the American Indian health commission.

(f) The county legislative authority may appoint elected officials from cities and towns and persons other than elected officials as members of the health district board so long as the city and county elected officials do not constitute a majority of the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, a resolution or ordinance adopted under this section must specify the provisions for the appointment, term, and compensation, or reimbursement of expenses.

(h) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(i) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the resolution or ordinance. The same official designated under the provisions of the resolution or ordinance may appoint an administrative officer, as described in RCW 70.05.045.

(j) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(k) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(l) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in section 7 of this act for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

NEW SECTION. Sec. 7. A new section is added to chapter 70.46 RCW to read as follows:

(1) A community health advisory board shall:

(a) Provide input to the local board of health in the recruitment and selection of an administrative officer, pursuant to RCW 70.05.045, and local health officer, pursuant to RCW 70.05.050;

(b) Use a health equity framework to conduct, assess, and identify the community health needs of the jurisdiction, and review and recommend public health policies and priorities for the local health jurisdiction and advisory board to address community health needs;

(c) Evaluate the impact of proposed public health policies and programs, and assure identified health needs and concerns are being met;

(d) Promote public participation in and identification of local public health needs;

(e) Provide community forums and hearings as assigned by the local board of health;

(f) Establish community task forces as assigned by the local board of health;

(g) Review and make recommendations to the local health jurisdiction and local board of health for an annual budget and fees; and

(h) Review and advise on local health jurisdiction progress in

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

achieving performance measures and outcomes to ensure continuous quality improvement and accountability.

(2) The advisory board shall consist of nine to 21 members appointed by the local board of health. The local health officer and a member of the local board of health shall serve as ex officio members of the board.

(3) The advisory board must be broadly representative of the character of the community. Membership preference shall be given to tribal, racial, ethnic, and other minorities. The advisory board must consist of a balance of members with expertise, career experience, and consumer experience in areas impacting public health and with populations served by the health department. The board's composition shall include:

- (a) Members with expertise in and experience with:
 - (i) Health care access and quality;
 - (ii) Physical environment, including built and natural environments;
 - (iii) Social and economic sectors, including housing, basic needs, education, and employment;
 - (iv) Business and philanthropy;
 - (v) Communities that experience health inequities;
 - (vi) Government; and
 - (vii) Tribal communities and tribal government.
- (b) Consumers of public health services;
- (c) Community members with lived experience in any of the areas listed in (a) of this subsection; and
- (d) Community stakeholders, including nonprofit organizations, the business community, and those regulated by public health.

(4) The local health jurisdiction and local board of health must actively recruit advisory board members in a manner that solicits broad diversity to assure representation from marginalized communities including tribal, racial, ethnic, and other minorities.

(5) Advisory board members shall serve for staggered three-year terms. This does not preclude any member from being reappointed.

(6) The advisory board shall, at the first meeting of each year, select a chair and vice chair. The chair shall preside over all advisory board meetings and work with the local health jurisdiction administrator, or their designee, to establish board meeting agendas.

(7) Staffing for the advisory board shall be provided by the local health jurisdiction.

(8) The advisory board shall hold meetings monthly, or as otherwise determined by the advisory board at a place and time to be decided by the advisory board. Special meetings may be held on call of the local board of health or the chairperson of the advisory board.

(9) Meetings of the advisory board are subject to the open public meetings act, chapter 42.30 RCW, and meeting minutes must be submitted to the local board of health.

NEW SECTION. Sec. 8. A new section is added to chapter 43.20 RCW to read as follows:

(1) The state board of health shall adopt rules establishing the appointment process for the members of local boards of health who are not elected officials. The selection process established by the rules must:

- (a) Be fair and unbiased; and
- (b) Ensure, to the extent practicable, that the membership of local boards of health include a balanced representation of elected officials and nonelected people with a diversity of expertise and lived experience.

(2) The rules adopted under this section must go into effect no later than one year after the effective date of this section.

NEW SECTION. Sec. 9. Sections 3 through 6 of this act

take effect July 1, 2022."

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 70.05.030, 70.05.035, 70.46.020, and 70.46.031; adding a new section to chapter 43.70 RCW; adding a new section to chapter 70.46 RCW; adding a new section to chapter 43.20 RCW; creating a new section; and providing an effective date."

MOTION

Senator Muzzall moved that the following floor amendment no. 823 by Senator Muzzall be adopted:

On page 1, line 27, after "health," insert "local health jurisdictions,"

On page 2, beginning on line 26, after "officials," strike all material through "200,000" on line 30 and insert "including one from a jurisdiction east of the Cascade mountains with a population between 200,000 and 600,000, one from a jurisdiction east of the Cascade mountains with a population under 200,000, one from a jurisdiction west of the Cascade mountains with a population between 200,000 and 600,000, and one from a jurisdiction west of the Cascade mountains with a population less than 200,000"

Senators Muzzall and Randall spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 823 by Senator Muzzall on page 1, line 27 to Engrossed Second Substitute House Bill No. 1152.

The motion by Senator Muzzall carried and floor amendment no. 823 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 820 by Senator Randall as amended to Engrossed Second Substitute House Bill No. 1152.

The motion by Senator Randall carried and striking floor amendment no. 820 as amended was adopted by voice vote.

MOTION

On motion of Senator Randall, the rules were suspended, Engrossed Second Substitute House Bill No. 1152, 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 Randall spoke in favor of passage of the bill.

Senators Padden, Schoesler, Honeyford and Fortunato spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1152 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1152, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 22; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Hasegawa, Hunt, Kuderer, Lovelett, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Saldaña, Salomon, Short, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Brown, Dozier, Ericksen, Fortunato,

Frocht, Gildon, Hawkins, Holy, Honeyford, Keiser, King, Liias, McCune, Padden, Robinson, Rolfes, Schoesler, Sheldon, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Hobbs

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1152, 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 seventh order of business.

The Senate resumed consideration of Second Substitute House Bill No. 1161 which it had deferred earlier in the day.

THIRD READING

SECOND SUBSTITUTE HOUSE BILL NO. 1161, by House Committee on Appropriations (originally sponsored by Peterson, Davis, Pollet and Thai)

Modifying the requirements for drug take-back programs.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1161.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1161 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Erickson, Fortunato, Frocht, Gildon, Hasegawa, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Hobbs

SECOND SUBSTITUTE HOUSE BILL NO. 1161, 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 reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1297, by House Committee on Appropriations (originally sponsored by Thai, Stokesbary, Ramel, Ryu, Robertson, Leavitt, Bateman, Fitzgibbon, Shewmake, Chapman, J. Johnson, Senn, Frame, Riccelli, Chopp, Wylie, Wicks, Simmons, Boehnke, Berry, Davis, Tharinger, Walsh, Eslick, Goodman, Peterson, Santos, Valdez, Cody, Chambers, Kloba, Ramos, Kirby, Bronoske, Gregerson, Macri, Callan, Paul, Sells, Bergquist, Ormsby, Pollet, Slatter, Stonier, Taylor and Harris-Talley)

Concerning working families tax exemption.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Many Washington families do not earn enough annually to keep pace with increasing health care, child care, housing, and other essential expenses.

(2) Amidst rising cost of living across the state, the regressive nature of Washington's tax code puts an additional strain on households already struggling to meet their basic needs. Washington's tax system is the most upside down and regressive in the nation, allowing those who earn the most to pay the least percentage of their income in taxes. As a percentage of household income, low-income Washingtonians, who are disproportionately Black, American Indian and Alaska Native, Latinx, Native Hawaiian and Pacific Islander, and multiracial Washingtonians, pay six times more in taxes than our wealthiest residents.

(3) Eligibility for the working families tax exemption is based on eligibility for the federal earned income tax credit, a refundable tax credit for working individuals and families whose earnings are below an income threshold. Since its establishment in 1975, the earned income tax credit has increased family income, reduced child poverty, and improved health, educational, and career outcomes for children in low-income families. Taxpayers filing with an individual tax identification number and their families, however, are excluded from receiving the federal credit and its corollary benefits to health and well-being, despite paying local, state, and federal taxes.

(4) Since its establishment in 1975, the earned income tax credit has also had a positive impact on local businesses because it puts more money in the hands of low-income working people who spend the money on immediate needs, such as groceries, transportation, rent, and health care. The credit has been shown to have a multiplier effect to support local businesses, generating an estimated \$1.50 to \$2.00 in local economic activity for every dollar received by beneficiaries.

(5) Therefore, it is the public policy objective of the legislature to stimulate local economic activity, advance racial equity, and promote economic stability and well-being for lower-income working people, including individual tax identification number filers, by updating and simplifying the structure of the working families tax exemption.

Sec. 2. RCW 82.08.0206 and 2008 c 325 s 2 are each amended to read as follows:

(1) A working families' tax exemption, in the form of a remittance of tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales taxes paid under this chapter after January 1, ~~((2008))~~ 2022.

(2) For purposes of the exemption in this section, ~~((an eligible low-income person is))~~ the following definitions apply:

(a) ~~((A))~~ (i) Except as provided in (a)(ii) of this subsection, "eligible low-income person" means an individual ~~((, or an individual and that individual's spouse if they file a federal joint income tax return;~~

~~((b) [An individual who] Who is))~~ who:

~~((A) Is eligible for((, and is granted,))~~ the credit provided in Title 26 U.S.C. Sec. 32; and

~~((e) [An individual who] Who properly))~~ (B) Properly files a

NINETY FIRST DAY, APRIL 11, 2021

federal income tax return as a Washington resident, and has been a resident of the state of Washington more than one hundred eighty days of the year for which the exemption is claimed.

(ii) "Eligible low-income person" also means an individual who:

(A) Meets the requirements provided in (a)(i)(B) of this subsection; and

(B) Would otherwise qualify for the credit provided in Title 26 U.S.C. Sec. 32 except for the fact that the individual filed a federal tax return in the prior year using a valid individual taxpayer identification number in lieu of a social security number, or the individual has a spouse or dependent without a social security number.

(b) "Income" means earned income as defined by Title 26 U.S.C. Sec. 32.

(c) "Individual" means an individual and that individual's spouse if they file a federal joint income tax return.

(d) "Qualifying child" means a qualifying child as defined by Title 26 U.S.C. Sec. 32.

(3) ~~(For remittances made in 2009 and 2010, the working families' tax exemption for the prior year is a retail sales tax exemption equal to the greater of five percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or twenty five dollars. For 2014)~~ (a) Except as provided in (b) and (c) of this subsection, for 2023 and thereafter, the working families' tax ~~((exemption))~~ remittance amount for the prior year is ~~((equal to the greater of ten percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or fifty dollars))~~:

(i) \$500 for eligible persons with no qualifying children;

(ii) \$650 for eligible persons with one qualifying child;

(iii) \$800 for eligible persons with two qualifying children; or

(iv) \$950 for eligible persons with three or more qualifying children.

(b) The remittance amounts provided in (a) of this subsection will be reduced, rounded to the nearest dollar, as follows:

(i) For eligible persons with no qualifying children, beginning at \$2,500 of income below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(ii) For eligible persons with one qualifying child, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 12 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(iii) For eligible persons with two qualifying children, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 15 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(iv) For eligible persons with three or more qualifying children, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(c) If the remittance for an eligible person as calculated in this section is greater than one cent, but less than \$50, the remittance amount is \$50.

(d) The remittance amounts in this section shall be adjusted for inflation every year beginning January 1, 2024, based upon changes in the consumer price index during the previous calendar year.

(e) For purposes of this section, "consumer price index" means, for any calendar year, that year's average consumer price index

2021 REGULAR SESSION

for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(4) For any fiscal period, the working families' tax exemption authorized under this section shall be approved by the legislature in the state omnibus appropriations act before persons may claim the exemption during the fiscal period.

(5) The working families' tax exemption shall be administered as provided in this subsection.

(a) The remittance paid under this section will be paid to eligible filers who apply pursuant to this subsection.

(i) Application must be made to the department in a form and manner determined by the department. If the application process is initially done electronically, the department must provide a paper application upon request. The application must include any information and documentation as required by the department.

(ii) Application for the remittance under this section must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before January 1, 2022. The department must use the eligible person's most recent federal tax filing to process the remittance.

(iii) A person may not claim an exemption on behalf of a deceased individual. No individual may claim an exemption under this section for any year in a disallowance period under Title 26 U.S.C. Sec. 32(k)(1) or for any year for which the individual is ineligible to claim the credit in Title 26 U.S.C. Sec. 32 by reason of Title 26 U.S.C. Sec. 32(k)(2).

(b) The department shall protect the privacy and confidentiality of personal data of remittance recipients in accordance with chapter 82.32 RCW.

(c) The department shall, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of, and requirements for, this section.

(d) The department must work with the internal revenue service to administer the exemption on an automatic basis as soon as practicable.

(6) Receipt of the remittance under this section may not be used in eligibility determinations for any state income support programs or in making public charge determinations.

(7) The department may adopt rules necessary to implement this section. This includes establishing a date by which applications will be accepted, with the aim of accepting applications as soon as possible. The department may gather necessary data through audit and other administrative records, including verification through internal revenue service data.

(8) The department must review the application and determine eligibility for the working families' tax exemption based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(9) If, upon review of internal revenue service data or other information obtained by the department, it appears that an individual received a remittance that the individual was not entitled to, or received a larger remittance than the individual was entitled to, the department may assess against the individual the overpaid amount. The department may also assess such overpaid amount against the individual's spouse if the remittance in question was based on both spouses filing a joint federal income tax return for the year for which the remittance was claimed.

(a) Interest as provided under RCW 82.32.050 applies to assessments authorized under this subsection (9) starting six months after the date the department issued the assessment until the amount due under this subsection (9) is paid in full to the

department. Except as otherwise provided in this subsection, penalties may not be assessed on amounts due under this subsection.

(b) If an amount due under this subsection is not paid in full by the date due, or the department issues a warrant for the collection of amounts due under this subsection, the department may assess the applicable penalties under RCW 82.32.090. Penalties under this subsection may not be made due until six months after their assessment.

(c) If the department finds by clear, cogent, and convincing evidence that an individual knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent claim for remittance under this section, the department must assess a penalty of 50 percent of the overpaid amount. This penalty is in addition to any other applicable penalties assessed in accordance with (b) of this subsection (9).

(10) If, within the period allowed for refunds under RCW 82.32.060, the department finds that an individual received a lesser remittance than the individual was entitled to, the department must remit the additional amount due under this section to the individual.

(11) Interest does not apply to remittances provided under this act.

(12) Chapter 82.32 RCW applies to the administration of this section.

~~((a) An eligible low income person claiming an exemption under this section must pay the tax imposed under chapters 82.08, 82.12, and 82.14 RCW in the year for which the exemption is claimed. The eligible low income person may then apply to the department for the remittance as calculated under subsection (3) of this section.~~

~~(b) Application shall be made to the department in a form and manner determined by the department, but the department must provide alternative filing methods for applicants who do not have access to electronic filing.~~

~~(c) Application for the exemption remittance under this section must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before January 1, 2008. The department may use the best available data to process the exemption remittance. The department shall begin accepting applications October 1, 2009.~~

~~(d) The department shall review the application and determine eligibility for the working families' tax exemption based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.~~

~~(e) The department shall remit the exempted amounts to eligible low income persons who submitted applications. Remittances may be made by electronic funds transfer or other means.~~

~~(f) The department may, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of and requirements for this exemption.~~

~~(g) The department may contact persons who appear to be eligible low income persons as a result of information received from the internal revenue service under such conditions and requirements as the internal revenue service may by law require.~~

~~(6) The provisions of chapter 82.32 RCW apply to the exemption in this section.~~

~~(7) The department may adopt rules necessary to implement this section.~~

~~(8) The department shall limit its costs for the exemption program to the initial start up costs to implement the program. The state omnibus appropriations act shall specify funding to be used for the ongoing administrative costs of the program. These~~

~~ongoing administrative costs include, but are not limited to, costs for: The processing of internet and mail applications, verification of application claims, compliance and collections, additional full-time employees at the department's call center, processing warrants, updating printed materials and web information, media advertising, and support and maintenance of computer systems.)~~

NEW SECTION. Sec. 3. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act."

On page 1, line 1 of the title, after "exemption;" strike the remainder of the title and insert "amending RCW 82.08.0206; creating new sections; and prescribing penalties."

Senator Nguyen spoke against adoption of the committee striking amendment.

Senator Darneille withdrew her motion to adopt the committee striking amendment.

MOTION

Senator Robinson moved that the committee striking amendment by the Committee on Ways & Means be not adopted:

Senator Robinson spoke in favor of not adopting the committee striking amendment.

Senators Braun and Mullet spoke against the motion to not adopt the committee striking amendment.

The President declared the question before the Senate to be not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1297.

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

MOTION

Senator Saldaña moved that the following floor amendment no. 784 by Senator Saldaña be adopted:

On page 3, line 15, after "32" insert ", except the child may have a valid individual taxpayer identification number in lieu of a social security number"

Senator Saldaña spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 784 by Senator Saldaña on page 3, line 15 to Engrossed Substitute House Bill No. 1297.

The motion by Senator Saldaña carried and floor amendment no. 784 was adopted by voice vote.

MOTION

Senator Wilson, L. moved that the following floor amendment no. 692 by Senator Wilson, L. be adopted:

On page 3, line 26, after "(i)" strike "\$500" and insert "\$300"

On page 3, line 27, after "(ii)" strike "\$650" and insert "\$600"

On page 3, line 28, after "(iii)" strike "\$800" and insert "\$900"

On page 3, line 29, after "(iv)" strike "\$950" and insert "\$1,200"

Senators Wilson, L. and Robinson spoke in favor of adoption of the amendment.

Senator Nguyen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 692 by Senator Wilson, L. on page 3, line 26 to Engrossed Substitute House Bill No. 1297.

The motion by Senator Wilson, L. carried and floor amendment no. 692 was adopted by voice vote.

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

WITHDRAWAL OF AMENDMENT

On motion of Senator Wilson, L. and without objection, floor amendment no. 693 by Senator Wilson, L. on page 3, line 26 to Engrossed Substitute House Bill No. 1297 was withdrawn.

MOTION

Senator Nguyen moved that the following floor amendment no. 795 by Senator Nguyen be adopted:

On page 7, beginning on line 35, after "82.32.805" strike all material through "82.32.808" on line 36

On page 7, after line 36, insert the following:

"NEW SECTION. Sec. 4. (1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter . . ., Laws of 2021 (section 2 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for the preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain individuals as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to allow low-income and middle-income workers to recover some or all of the sales tax they pay to support state and local government as a way to increase their economic security and to decrease the regressivity of our state tax code. It is the legislature's intent to provide a sales and use tax credit, in the form of a remittance, to low-income and middle-income working families.

(4) The joint legislative audit and review committee shall review this preference in 2028 and every 10 years thereafter. If a review finds that the working families' tax credit does not provide meaningful financial relief to low-income and middle-income households, this act shall expire at the end of the calendar year two years after the adoption of the final report containing that finding. In its review of the program, the joint legislative audit and review committee should use at least the following metrics: Size of the benefit per household, number of household beneficiaries statewide, and demographic information of beneficiaries to include family size, income level, race and ethnicity, and geographic location.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the remittance data prepared by the department of revenue."

Senators Nguyen and Wilson, L. spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 795 by Senator Nguyen on page 7, line 35 to Engrossed Substitute House Bill No. 1297.

The motion by Senator Nguyen carried and floor amendment no. 795 was adopted by voice vote.

MOTION

On motion of Senator Nguyen, the rules were suspended, Engrossed Substitute House Bill No. 1297, 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 Nguyen, Wilson, L., Wagoner and Padden spoke in favor of passage of the bill.

Senator Fortunato spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1297 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1297, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Honeyford and Schoesler

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1297, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1423, by House Committee on Environment & Energy (originally sponsored by Fitzgibbon, Springer and Dent)

Concerning smoke management civil enforcement.

The measure was read the second time.

MOTION

On motion of Senator Carlyle, the rules were suspended, Substitute House Bill No. 1423 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Carlyle and Sheldon spoke in favor of passage of the bill.

Senators Muzzall and Fortunato spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1423.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1423 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Ericksen, Fortunato, McCune, Muzzall and Padden

SUBSTITUTE HOUSE BILL NO. 1423, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1416, by House Committee on Civil Rights & Judiciary (originally sponsored by Walen and Santos)

Concerning the reporting of debt information by insurers to enhance the collection of past-due child support.

The measure was read the second time.

The time arriving at 4:55 p.m. the Senate advanced to the designated special order of business.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1336, by House Committee on Community & Economic Development (originally sponsored by Hansen, Ybarra, Berry, Simmons, Ramel, Valdez, Leavitt, Morgan, Ryu, Peterson, Shewmake, Davis, Ormsby, Gilday, Stonier, Eslick, Pollet and Harris-Talley)

Creating and expanding unrestricted authority for public entities to provide telecommunications services to end users.

The measure was read the second time.

MOTION

Senator Carlyle moved that the following committee striking amendment by the Committee on Environment, Energy & Technology be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 54.16.005 and 2000 c 81 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services.

(2) "Commission" means the Washington utilities and transportation commission.

~~((2))~~ (3) "District commission" means the governing board of a public utility district.

(4) "Retail telecommunications services" means the sale, lease, license, or indivisible right of use of telecommunications services or telecommunications facilities directly to end users.

(5) "Telecommunications" has the same meaning as ~~((that contained))~~ defined in RCW 80.04.010.

~~((3))~~ (6) "Telecommunications facilities" means lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by any entity to facilitate the provision of telecommunications services.

~~((4))~~ (7) "Wholesale telecommunications services" means the provision of telecommunications services or telecommunications facilities for resale ~~((by))~~ to an entity ~~((authorized to provide))~~

that provides retail telecommunications services ~~((to the general public and internet service providers)).~~

Sec. 2. RCW 54.16.330 and 2019 c 365 s 9 are each amended to read as follows:

(1)~~((a))~~ A public utility district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or ~~((without))~~ outside of the district's limits for any or all of the following purposes:

~~((i))~~ (a) For the district's internal telecommunications needs;
~~((ii))~~ ~~For the provision of wholesale telecommunications services within the district and by contract with another public utility district.~~

~~(b) Except as provided in subsection (8) of this section, nothing in this section shall be construed to authorize public utility districts to provide telecommunications services to end users)~~ (b) For the provision of either retail or wholesale, or both, telecommunications services and telecommunications facilities within the district; or

(c) For the provision of either retail or wholesale, or both, telecommunications services or telecommunications facilities outside of the district by contract with another public utility district, any political subdivision of the state authorized to provide retail telecommunications services in the state, or with any federally recognized tribe located in the state of Washington.

(2) A public utility district providing wholesale or retail telecommunications services shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) A public utility district providing wholesale or retail telecommunications services shall not be required to, but may, establish a separate utility system or function for such purpose. In either case, a public utility district providing wholesale or retail telecommunications services shall separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide such services, including payments on debt issued to finance such services, until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired.

(4) When a public utility district provides wholesale or retail telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs shall be allocated or charged at its true and full value. A public utility district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) If a person or entity receiving retail telecommunications services from a public utility district under this section has a complaint regarding the reasonableness of the rates, terms, conditions, or services provided, the person or entity may file a complaint with the district commission.

(6) A public utility district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual

NINETY FIRST DAY, APRIL 11, 2021

rights held by any other person or entity to telecommunications facilities.

(7) Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

~~((8)(a) If an internet service provider operating on telecommunications facilities of a public utility district that provides wholesale telecommunications services but does not provide retail telecommunications services, ceases to provide access to the internet to its end use customers, and no other retail service providers are willing to provide service, the public utility district may provide retail telecommunications services to the end use customers of the defunct internet service provider in order for end use customers to maintain access to the internet until a replacement internet service provider is, or providers are, in operation.~~

~~(b) Within thirty days of an internet service provider ceasing to provide access to the internet, the public utility district must initiate a process to find a replacement internet service provider or providers to resume providing access to the internet using telecommunications facilities of a public utility district.~~

~~(c) For a maximum period of five months, following initiation of the process begun in (b) of this section, or, if earlier than five months, until a replacement internet service provider is, or providers are, in operation, the district commission may establish a rate for providing access to the internet and charge customers to cover expenses necessary to provide access to the internet.~~

~~(9) The tax treatment of the retail telecommunications services provided by a public utility district to the end use customers during the period specified in subsection (8) of this section must be the same as if those retail telecommunications services were provided by the defunct internet service provider.)~~

NEW SECTION. Sec. 3. A new section is added to chapter 54.16 RCW to read as follows:

(1) Before providing retail telecommunications services, a public utility district is encouraged to examine and report to its governing body the following about the area to be served by the public utility district:

(a) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(b) The location of where retail telecommunications services will be provided;

(c) Evidence relating to the unserved or underserved nature of the community in which retail telecommunications services will be provided;

(d) Expected costs of providing retail telecommunications services to customers to be served by the public utility district; and

(e) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536.

(2) For purposes of this section, "unserved" means a census block in which no provider has the capacity to deliver internet access service at speeds of a minimum of twenty-five megabits download and three megabits upload.

Sec. 4. RCW 54.16.425 and 2018 c 186 s 3 are each amended to read as follows:

(1) Property owned by a public utility district that is exempt from property tax under RCW 84.36.010 is subject to an annual payment in lieu of property taxes if the property consists of a

2021 REGULAR SESSION

broadband ~~((network))~~ infrastructure used in providing retail ~~((internet service))~~ telecommunications services.

(2)(a) The amount of the payment must be determined jointly and in good faith negotiation between the public utility district that owns the property and the county or counties in which the property is located.

(b) The amount agreed upon may not exceed the property tax amount that would be owed on the property comprising the broadband ~~((network))~~ infrastructure used in providing retail ~~((internet service))~~ telecommunications services as calculated by the department of revenue. The public utility district must provide information necessary for the department of revenue to make the required valuation under this subsection. The department of revenue must provide the amount of property tax that would be owed on the property to the county or counties in which the broadband ~~((network))~~ infrastructure is located on an annual basis.

(c) If the public utility district and a county cannot agree on the amount of the payment in lieu of taxes, either party may invoke binding arbitration by providing written notice to the other party. In the event that the amount of payment in lieu of taxes is submitted to binding arbitration, the arbitrators must consider the government services available to the public utility district's broadband ~~((network))~~ infrastructure used in providing retail ~~((internet service))~~ telecommunications services. The public utility district and county must each select one arbitrator, the two of whom must pick a third arbitrator. Costs of the arbitration, including compensation for the arbitrators' services, must be borne equally by the parties participating in the arbitration.

(3) By April 30th of each year, a public utility district must remit the annual payment to the county treasurer of each county in which the public utility district's broadband ~~((network))~~ infrastructure used in providing retail ~~((internet service))~~ telecommunications services is located in a form and manner required by the county treasurer.

(4) The county must distribute the amounts received under this section to all property taxing districts, including the state, in appropriate tax code areas in the same proportion as it would distribute property taxes from taxable property.

(5) By December 1, 2019, and annually thereafter, the department of revenue must submit a report to the appropriate legislative committees detailing the amount of payments made under this section and the amount of property tax that would be owed on the property comprising the broadband ~~((network))~~ infrastructure used in providing retail ~~((internet service))~~ telecommunications services.

~~((6) The definitions in RCW 54.16.420 apply to this section.))~~
NEW SECTION. Sec. 5. A new section is added to chapter 35.27 RCW to read as follows:

(1) A town may construct, purchase, acquire, develop, finance, lease, license, provide, contract for, interconnect, alter, improve, repair, operate, and maintain telecommunications services or telecommunications facilities for the purpose of furnishing the town and its inhabitants with telecommunications services. The town has full authority to regulate and control the use, distribution, and price of the services.

(2) For purposes of this section, "telecommunications" has the same meaning as defined in RCW 80.04.010.

NEW SECTION. Sec. 6. A new section is added to chapter 35.23 RCW to read as follows:

(1) A second-class city may construct, purchase, acquire, develop, finance, lease, license, provide, contract for, interconnect, alter, improve, repair, operate, and maintain telecommunications services or telecommunications facilities for the purpose of furnishing the second-class city and its inhabitants

with telecommunications services. The second-class city has full authority to regulate and control the use, distribution, and price of the services.

(2) For purposes of this section, "telecommunications" has the same meaning as defined in RCW 80.04.010.

NEW SECTION. Sec. 7. A new section is added to chapter 36.01 RCW to read as follows:

(1) A county may construct, purchase, acquire, develop, finance, lease, license, provide, contract for, interconnect, alter, improve, repair, operate, and maintain telecommunications services or telecommunications facilities for the purpose of furnishing the county and its inhabitants with telecommunications services. The county has full authority to regulate and control the use, distribution, and price of the services.

(2) For purposes of this section, "telecommunications" has the same meaning as defined in RCW 80.04.010.

Sec. 8. RCW 53.08.005 and 2018 c 169 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the Washington utilities and transportation commission.

(2) "Retail telecommunications services" means the sale, lease, license, or indivisible right of use of telecommunications services or telecommunications facilities directly to end users.

(3) "Telecommunications" has the same meaning as contained in RCW 80.04.010.

~~((3))~~ (4) "Telecommunications facilities" means lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by any entity to facilitate the provision of telecommunications services.

~~((4))~~ (5) "Wholesale telecommunications services" means the provision of telecommunications services or telecommunications facilities for resale ~~((by))~~ to an entity authorized to provide telecommunications services ~~((to the general public and internet service providers)).~~ Wholesale telecommunications services includes the provision of unlit or dark optical fiber for resale, but not the provision of lit optical fiber.

Sec. 9. RCW 53.08.370 and 2019 c 365 s 10 are each amended to read as follows:

(1) A port district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or ~~((without))~~ outside the district's limits for any or all of the following purposes:

(a) For the district's own use; ~~((and))~~

(b) For the provision of wholesale telecommunications services within or ~~((without))~~ outside the district's limits ~~((Nothing in this subsection shall be construed to authorize port districts to provide telecommunications services to end users)); or~~

(c) For the provision of retail telecommunications services within or outside the district's limits.

(2) Except as provided in subsection ~~((9))~~ (8) of this section, a port district providing wholesale or retail telecommunications services under this section shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a port district offering such rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) When a port district establishes a separate utility function

for the provision of wholesale or retail telecommunications services, it shall account for any and all revenues and expenditures related to its wholesale or retail telecommunications facilities and services separately from revenues and expenditures related to its internal telecommunications operations. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to the utility function that includes the provision of wholesale or retail telecommunications services for costs incurred to build and maintain the telecommunications facilities until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance the telecommunications facilities are discharged or retired.

(4) When a port district establishes a separate utility function for the provision of wholesale or retail telecommunications services, all telecommunications services rendered by the separate function to the district for the district's internal telecommunications needs shall be charged at its true and full value. A port district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) A port district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(6) Except as otherwise specifically provided, a port district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a port district under this title.

~~(7) ((A port district that has not exercised the authorities provided in this section prior to June 7, 2018, must develop a business case plan before exercising the authorities provided in this section. The port district must procure an independent qualified consultant to review the business case plan, including the use of public funds in the provision of wholesale telecommunications services. Any recommendations or adjustments to the business case plan made during third party review must be received and either rejected or accepted by the port commission in an open meeting.~~

~~(8))~~ (8) A port district with telecommunications facilities for use in the provision of wholesale or retail telecommunications in accordance with subsection (1)~~((b))~~ of this section may be subject to local leasehold excise taxes under RCW 82.29A.040.

~~((9))~~ (8)(a) A port district under this section may select a telecommunications company to operate all or a portion of the port district's telecommunications facilities.

(b) For the purposes of this section "telecommunications company" means any for-profit entity owned by investors that sells telecommunications services to end users.

(c) Nothing in this subsection ~~((9))~~ (8) is intended to limit or otherwise restrict any other authority provided by law.

NEW SECTION. Sec. 10. A new section is added to chapter 53.08 RCW to read as follows:

(1) Before providing retail telecommunications services, a port district is encouraged to examine and report to its governing body the following about the area to be served by the port district:

(a) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(b) The location of where retail telecommunications services will be provided;

(c) Evidence relating to the unserved or underserved nature of the community in which retail telecommunications services will be provided;

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

(d) Expected costs of providing retail telecommunications services to customers to be served by the port district; and

(e) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536.

(2) For purposes of this section, "unserved" means a census block in which no provider has the capacity to deliver internet access service at speeds of a minimum of twenty-five megabits download and three megabits upload.

Sec. 11. RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, or increase access to broadband, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4)(a) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages other funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed-use and mixed income development consistent

with chapter 36.70A RCW;

(viii) Whether the system is being well-managed in the present and for long-term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services and transportation; and

(G) Reduction of the overall cost of public infrastructure;

(xi) Whether the applicant sought or is seeking funding for the project from other sources; and

(xii) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(i) The total number of applications and amount of funding requested for public works projects;

(ii) A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;

(iii) The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;

(iv) The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;

(v) The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and

(vi) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.

(c) The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium.

(5) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before September 1st of each year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans and grants made under RCW 43.155.065 and 43.155.068.

(7) The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds to the board for the purpose of funding public works projects under this chapter.

(8) To qualify for loans, grants, or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter ~~((70.95))~~ 70A.205 RCW.

(9) After January 1, 2010, any project designed to address the effects of stormwater or wastewater on Puget Sound may be

funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(10) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.

(11) The board must implement policies and procedures designed to maximize local government consideration of other funds to finance local infrastructure.

(12) The relevant sections of the Washington Administrative Code must be amended by January 1, 2022, in accordance with the provisions of this section.

NEW SECTION. Sec. 12. This act may be known and cited as the public broadband act.

NEW SECTION. Sec. 13. RCW 54.16.420 (Retail internet service—Definitions—Authority—Requirements) and 2018 c 186 s 1 are each repealed."

On page 1, line 3 of the title, after "users;" strike the remainder of the title and insert "amending RCW 54.16.005, 54.16.330, 54.16.425, 53.08.005, 53.08.370, and 43.155.070; adding a new section to chapter 54.16 RCW; adding a new section to chapter 35.27 RCW; adding a new section to chapter 35.23 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 53.08 RCW; creating a new section; and repealing RCW 54.16.420."

MOTION

Senator Ericksen moved that the following floor amendment no. 604 by Senator Ericksen be adopted:

On page 1, after line 2, insert the following:

"NEW SECTION. Sec. 1. Any public entity that provides retail telecommunications services under the authority of this act shall comply with all applicable federal, state, and local laws to the same extent as a private entity that provides retail telecommunications services in Washington."

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

On page 14, line 7, after "creating" strike "a new section" and insert "new sections"

Senators Ericksen and Short spoke in favor of adoption of the amendment to the striking amendment.

Senators Carlyle and Sheldon spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 604 by Senator Ericksen on page 1, line 2 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Ericksen did not carry and floor amendment no. 604 was not adopted by voice vote.

MOTION

Senator Dhingra moved that the following floor amendment no. 827 by Senator Dhingra be adopted:

On page 2, line 7, after "or" strike "~~((without)) outside of~~" and insert "without"

On page 2, at the beginning of line 8, strike "any or all of"

On page 2, at the beginning of line 16, strike all material

through "Washington" on line 24 and insert "For the provision of wholesale telecommunications services as follows:

(i) Within the district and by contract with another public utility district;

(ii) Within an area in an adjoining county that is already provided electrical services by the district; or

(iii) Within an adjoining county that does not have a public utility district providing electrical or telecommunications services headquartered within the county's boundaries, but only if the district providing telecommunications services is not authorized to provide electrical services; or

(c) For the provision of retail telecommunications services as authorized in this section"

On page 4, after line 18, insert the following:

"(8) A public utility district may provide retail telecommunications services or telecommunications facilities within the district's limits or without the district's limits by contract with another public utility district, any political subdivision of the state authorized to provide retail telecommunications services in the state, or with any federally recognized tribe located in the state of Washington."

On page 8, beginning on line 4, after "or" strike "~~((without)) outside~~" and insert "without"

On page 8, line 5, after "for" strike "any or all of"

On page 8, line 9, after "or" strike "~~((without)) outside~~" and insert "without"

On page 8, at the beginning of line 13, strike "within or outside the district's limits" and insert "as authorized by this section"

On page 9, after line 33, insert the following:

"(9) A port district may provide retail telecommunications services within or without the district's limits."

Senators Dhingra and Sheldon spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Ericksen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 827 by Senator Dhingra on page 2, line 7 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Dhingra carried and floor amendment no. 827 was adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 625 by Senator Short be adopted:

On page 2, after line 24, insert the following:

"(d) Before offering any telecommunications service, a district must develop a plan complete with detailed costs and submit that plan to the voters within the district for approval. A district may not proceed to offer telecommunications services without prior voter approval of the plan."

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

"(d) Before offering any telecommunications service, a district must develop a plan complete with detailed costs and submit that plan to the voters within the district for approval. A district may not proceed to offer telecommunications services without prior voter approval of the plan."

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Carlyle spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 625 by Senator Short on page 2,

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

line 24 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Short did not carry and floor amendment no. 625 was not adopted by voice vote.

MOTION

Senator Ericksen moved that the following floor amendment no. 605 by Senator Ericksen be adopted:

On page 2, line 25, after "(2)" insert "Notwithstanding subsection (1) of this section, a public utility district may not provide retail telecommunications services to a business or public institution that was receiving services from a private provider as of the effective date of this section.

(3)"

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

On page 6, line 24, after "services." insert "A town may not provide retail telecommunications services to a business or public institution that was receiving services from a private provider as of the effective date of this section."

On page 6, line 36, after "services." insert "A second-class city may not provide retail telecommunications services to a business or public institution that was receiving services from a private provider as of the effective date of this section."

On page 7, line 9, after "services." insert "A county may not provide retail telecommunications services to a business or public institution that was receiving services from a private provider as of the effective date of this section."

On page 8, line 14, after "(2)" insert "Notwithstanding subsection (1) of this section, a port district may not provide retail telecommunications services to a business or public institution that was receiving services from a private provider as of the effective date of this section.

(3)"

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

Senators Ericksen, Wagoner and Short spoke in favor of adoption of the amendment to the striking amendment.

Senators Carlyle, Rolfes, Wellman and Sheldon spoke against adoption of the amendment to the striking amendment.

Senator Schoesler spoke on adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 605 by Senator Ericksen on page 2, line 25 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Ericksen did not carry and floor amendment no. 605 was not adopted by voice vote.

MOTION

Senator Ericksen moved that the following floor amendment no. 606 by Senator Ericksen be adopted:

On page 2, line 35, after "shall" strike "not be required to, but may," and insert "~~((not be required to, but may.))~~"

On page 2, beginning on line 36, after "purpose." strike "In either case, a" and insert "~~((In either case, a))~~ Δ"

On page 3, beginning on line 6, after "services" strike all material through "retired" on line 9 and insert "~~((until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired))~~"

On page 8, beginning on line 33, after "facilities" strike all

material through "retired" on line 36 and insert "~~((until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired))~~"

Senator Ericksen spoke in favor of adoption of the amendment to the striking amendment.

Senator Carlyle spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 606 by Senator Ericksen on page 2, line 35 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Ericksen did not carry and floor amendment no. 606 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 615 by Senator Short be adopted:

On page 3, line 1, after "title." insert "The state auditor shall establish or update the accounting standards provided under this subsection by January 1, 2022."

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Carlyle spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 615 by Senator Short on page 3, line 1 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Short did not carry and floor amendment no. 615 was not adopted by voice vote.

MOTION

Senator Schoesler moved that the following floor amendment no. 610 by Senator Schoesler be adopted:

On page 4, after line 18, insert the following:

"(8) Notwithstanding the other provisions of this section, a public utility district may not provide new retail telecommunications services beyond the district's limits after the effective date of this section."

On page 9, after line 33, insert the following:

"(9) Notwithstanding the other provisions of this section, a port district may not provide new retail telecommunications services beyond the district's limits after the effective date of this section."

Senators Schoesler, Wellman and King spoke in favor of adoption of the amendment to the striking amendment.

Senators Carlyle, Rolfes, Hasegawa, Randall and Sheldon spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 610 by Senator Schoesler on page 4, line 18 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Schoesler did not carry and floor amendment no. 610 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 631 by Senator Short be adopted:

On page 4, line 22, after "district" strike "is encouraged to examine and" and insert "must"

On page 4, line 23, after "body" insert "and to the state broadband office"

On page 4, line 30, after "unserved" strike "or underserved"

On page 4, at the beginning of line 35, strike "and"

On page 4, line 38, after "43.330.536" insert ";

(f) Sources of funding for the project that will supplement any grant or loan awards; and

(g) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users"

On page 5, line 1, after "(2)" insert "The state broadband office must post a review of the proposed project on their website.

(3) This review may include an assessment of the project's economic and technical feasibility as conducted by the commission.

(4)"

On page 9, line 37, after "district" strike "is encouraged to examine and" and insert "must"

On page 9, line 37, after "body" insert "and to the state broadband office"

On page 10, line 6, after "unserved" strike "or underserved"

On page 10, line 10, after "district;" strike "and"

On page 10, line 13, after "43.330.536" insert ";

(f) Sources of funding for the project that will supplement any grant or loan awards; and

(g) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users"

On page 10, line 14, after "(2)" insert "The state broadband office must post a review of the proposed project on their website.

(3) This review may include an assessment of the project's economic and technical feasibility as conducted by the commission.

(4)"

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Carlyle spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 631 by Senator Short on page 4, line 22 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Short did not carry and floor amendment no. 631 was not adopted by voice vote.

MOTION

Senator Wellman moved that the following floor amendment no. 806 by Senator Wellman be adopted:

On page 4, line 22, after "district" strike "is encouraged to examine and" and insert "must"

On page 4, line 23, after "body" insert "and to the state broadband office"

On page 4, line 30, after "unserved" strike "or underserved"

On page 4, at the beginning of line 35, strike "and"

On page 4, line 38, after "43.330.536" insert ";

(f) Sources of funding for the project that will supplement any grant or loan awards; and

(g) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users"

On page 5, beginning on line 1, after "(2)" strike all material through "upload." on line 4 and insert "The state broadband office

must post a review of the proposed project on their website.

(3) For the purposes of this section, "unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed."

On page 6, beginning on line 25, after "(2)" strike all material through "RCW 80.04.010." on line 26 and insert "(a) Before providing telecommunications services pursuant to subsection (1) of this section, a town must examine and report to its governing body and to the state broadband office the following about the area to be served by the town:

(i) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(ii) The location of where retail telecommunications services will be provided;

(iii) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(iv) Expected costs of providing retail telecommunications services to customers to be served by the town;

(v) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(vi) Sources of funding for the project that will supplement any grant or loan awards; and

(vii) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(b) The state broadband office must post a review of the proposed project on its website.

(3) For purposes of this section:

(a) "Telecommunications" has the same meaning as defined in RCW 80.04.010.

(b) "Unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed."

On page 6, beginning on line 37, after "(2)" strike all material through "RCW 80.04.010." on line 38 and insert "(a) Before providing telecommunications services pursuant to subsection (1) of this section, a second-class city must examine and report to its governing body and to the state broadband office the following about the area to be served by the second-class city:

(i) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(ii) The location of where retail telecommunications services will be provided;

(iii) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(iv) Expected costs of providing retail telecommunications services to customers to be served by the second-class city;

(v) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(vi) Sources of funding for the project that will supplement any grant or loan awards; and

(vii) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(b) The state broadband office must post a review of the proposed project on its website.

(3) For purposes of this section:

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

(a) "Telecommunications" has the same meaning as defined in RCW 80.04.010.

(b) "Unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed."

On page 7, beginning on line 10, after "(2)" strike all material through "RCW 80.04.010." on line 11 and insert "(a) Before providing telecommunications services pursuant to subsection (1) of this section, a county must examine and report to its governing body and to the state broadband office the following about the area to be served by the county:

(i) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(ii) The location of where retail telecommunications services will be provided;

(iii) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(iv) Expected costs of providing retail telecommunications services to customers to be served by the county;

(v) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(vi) Sources of funding for the project that will supplement any grant or loan awards; and

(vii) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(b) The state broadband office must post a review of the proposed project on its website.

(3) For purposes of this section:

(a) "Telecommunications" has the same meaning as defined in RCW 80.04.010.

(b) "Unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed."

On page 9, line 37, after "district" strike "is encouraged to examine and" and insert "must"

On page 9, line 37, after "body" insert "and to the state broadband office"

On page 10, line 6, after "unserved" strike "or underserved"

On page 10, line 10, after "district;" strike "and"

On page 10, line 13, after "43.330.536" insert ";

(f) Sources of funding for the project that will supplement any grant or loan awards; and

(g) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users"

On page 10, beginning on line 14, after "(2)" strike all material through "upload." on line 17 and insert "The state broadband office must post a review of the proposed project on their website.

(3) For the purposes of this section, "unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed."

Senators Wellman, Carlyle and Frockt spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 806 by Senator Wellman on page 4, line 22 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Wellman carried and floor amendment no. 806 was adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 614 by Senator Short be adopted:

Beginning on page 6, line 16, strike all of sections 5 through 7 Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 14, beginning on line 4, after "54.16 RCW;" strike all material through "36.01 RCW;" on line 6

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Carlyle spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 614 by Senator Short on page 6, line 16 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Short did not carry and floor amendment no. 614 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 626 by Senator Short be adopted:

On page 8, line 14, after "subsection" strike "~~((9))~~ (8)" and insert "(9)"

On page 9, beginning on line 13, after "(7)" strike all material through "~~(8))~~" on line 22 and insert "A port district that has not exercised the authorities provided in this section prior to June 7, 2018, must develop a business case plan before exercising the authorities provided in this section. The port district must procure an independent qualified consultant to review the business case plan, including the use of public funds in the provision of wholesale telecommunications services. Any recommendations or adjustments to the business case plan made during third-party review must be received and either rejected or accepted by the port commission in an open meeting.

(8)"

On page 9, at the beginning of line 26, strike "~~((9))~~ (8)" and insert "(9)"

On page 9, line 32, after "subsection" strike "~~((9))~~ (8)" and insert "(9)"

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Carlyle spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 626 by Senator Short on page 8, line 14 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Short did not carry and floor amendment no. 626 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 828 by Senator Short be adopted:

On page 10, beginning on line 31, after "degradation," strike "or increase access to broadband" and insert "and except as

provided in subsection (12) of this section"

On page 13, beginning on line 28, after "(12)" strike all material through "section" on line 30 and insert "The provisions in subsection (2) of this section do not apply to a county, city, or town applying for grants and loans under this chapter for projects that support broadband services where such grants and loans will assist the county, city, or town with economic development, disaster resiliency and response, adaptation to public health emergencies such as pandemics, and emergency management"

On page 13, after line 30, insert the following:

NEW SECTION. Sec. 12. A new section is added to chapter 43.160 RCW to read as follows:

The board is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding.

NEW SECTION. Sec. 13. A new section is added to chapter 80.36 RCW to read as follows:

The commission is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding.

NEW SECTION. Sec. 14. A new section is added to chapter 43.330 RCW to read as follows:

The department is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding."

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

On page 14, line 6, after "53.08 RCW;" insert "adding a new section to chapter 43.160 RCW; adding a new section to chapter 80.36 RCW; adding a new section to chapter 43.330 RCW;"

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Carlyle spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 828 by Senator Short on page 10, line 31 to Engrossed Substitute House Bill No. 1336.

The motion by Senator Short did not carry and floor amendment no. 828 was not 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 Environment, Energy & Technology to Engrossed Substitute House Bill No. 1336.

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

MOTION

On motion of Senator Carlyle, the rules were suspended, Engrossed Substitute House Bill No. 1336, 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 Carlyle, Rolfes, Hawkins, Hasegawa and Sheldon spoke in favor of passage of the bill.

Senators King, Wellman, Ericksen, Rivers and Short spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1336 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1336, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

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

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hobbs, Holy, Honeyford, King, McCune, Mullet, Muzzall, Padden, Rivers, Schoesler, Short, Wagoner, Warnick, Wellman, Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1336, 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.

The Senate resumed consideration of Substitute House Bill No. 1416.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1416, by House Committee on Civil Rights & Judiciary (originally sponsored by Walen and Santos)

Concerning the reporting of debt information by insurers to enhance the collection of past-due child support.

MOTION

Senator Pedersen moved that the following committee striking amendment by the Committee on Law & Justice be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. (1) The legislature finds that it is in the interests of the citizens of the state of Washington to enhance and increase the efficiency of the processes for collecting child support debts owed to the state or owed to a custodial parent.

(2) The legislature further finds that liens filed in the state of Washington are filed on a county-by-county basis, and there is no statewide registry or clearinghouse where a comprehensive collection of liens may be checked by a party or other entity before funds are disbursed to the debtor.

(3) The legislature further finds that it would enhance the collection opportunities for child support to require insurance companies doing business in the state of Washington to participate in a reporting scheme that would allow a data match with child support debts.

NEW SECTION. Sec. 2. A new section is added to chapter 26.23 RCW to read as follows:

(1)(a) Except as otherwise provided in subsection (8) of this section, each insurer shall, not later than 10 days after opening a tort liability claim for bodily injury or wrongful death, a workers' compensation claim, or a claim under a policy of life insurance, exchange information with the division of child support in the manner prescribed by the department to verify whether the claimant owes debt for the support of one or more children to the department or to a person receiving services from the division of child support. To the extent feasible, the division of child support shall facilitate a secure electronic process to exchange information with insurers pursuant to this subsection. The obligation of an insurer to exchange information with the division

NINETY FIRST DAY, APRIL 11, 2021

2021 REGULAR SESSION

of child support is discharged upon complying with the requirements of this subsection.

(b) The exchange of information pursuant to this act must comply with privacy protections under applicable state and federal laws and regulations, including the federal health insurance portability and accountability act.

(2) In order to determine whether a claimant owes a debt being enforced by the division of child support, all insurance companies doing business in the state of Washington that issue qualifying payments to claimants must provide minimum identifying information about the claimant to:

- (a) An insurance claim data collection organization;
- (b) The federal office of child support enforcement or the child support lien network; or
- (c) The division of child support in a manner satisfactory to the department.

(3) Insurers must take the steps necessary to authorize an insurance claim data collection organization to share minimum identifying information with the federal office of child support enforcement and the child support claim lien network.

(4) Except as otherwise provided in subsections (5) and (7) of this section, if an insurer is notified by the division of child support that a claimant owes debt for the support of one or more children to the department or to a person receiving services from the division of child support, the insurer shall, upon the receipt of a notice issued by the department identifying the amount of debt owed pursuant to chapter 74.20A RCW:

- (a) Withhold from payment on the claim the amount specified in the notice; and
- (b) Remit the amount withheld from payment to the department within 20 days.

(5) The department shall give any lien, claim, or demand for reasonable claim-related attorneys' fees, property damage, and medical costs priority over any withholding of payment pursuant to subsection (4) of this section.

(6) Any information obtained pursuant to this act must be used only for the purpose of carrying out the provisions of this act. An insurer or other entity described in subsection (2) of this section may not be held liable in any civil or criminal action for any act made in good faith pursuant to this section including, but not limited to:

- (a) Any disclosure of information to the department or the division of child support; or
- (b) The withholding of any money from payment on a claim or the remittance of such money to the department.

(7) An insurer may not delay the disbursement of a payment on a claim to comply with the requirements of this section. An insurer is not required to comply with subsection (4) of this section if the notice issued by the department is received by the insurer after the insurer has disbursed the payment on the claim. In the case of a claim that will be paid through periodic payments, the insurer:

- (a) Is not required to comply with the provisions of subsection (4) of this section with regard to any payments on the claim disbursed to the claimant before the notice was received by the insurer; and

(b) Must comply with the provisions of subsection (4) of this section with regard to any payments on the claim scheduled to be made after the receipt of the notice.

(8) If periodic payment will be made to a claimant, an insurer is only required to engage in the exchange of information pursuant to subsection (1) of this section before issuing the initial payment.

(9) An insurance company's failure to comply with the reporting requirements of this act does not amount to

noncompliance with a requirement of the division of child support as described in RCW 74.20A.350.

(10) For the purposes of this section, the following definitions apply:

(a) "Claimant" means any person who: (i) Brings a tort liability claim for bodily injury or wrongful death; (ii) is receiving workers' compensation benefits; or (iii) is a beneficiary under a life insurance policy. "Claim for bodily injury" does not include a claim for uninsured or underinsured vehicle coverage or medical payments coverage under a motor vehicle liability policy.

(b) "Insurance claim data collection organization" means an organization that maintains a centralized database of information concerning insurance claims to assist insurers that subscribe to the database in processing claims and detecting and preventing fraud, and also cooperates and coordinates with the federal or state child support entities to share relevant information for insurance intercept purposes.

(c) "Insurer" means: (i) A person who holds a certificate of authority to transact insurance in the state; or (ii) a chapter 48.15 RCW unauthorized insurer.

(d) "Qualifying payment" means a payment that is either a one-time lump sum or an installment payment issued by an insurance company doing business in the state of Washington, which is made for the purpose of satisfying, compromising, or settling, a tort or insurance claim where the payment is in excess of \$500 and is intended to go directly to the claimant and not to a third party, such as a health care provider.

(e) "Tort or insurance claim" means: (i) A claim for general damages, which are also called noneconomic damages; or (ii) a claim for lost wages. "Tort or insurance claim" does not include claims for property damage under either liability insurance or uninsured motorist insurance.

NEW SECTION. Sec. 3. A new section is added to chapter 26.23 RCW to read as follows:

An insurance company may comply with the obligation to exchange information with the division of child support described in section 2(1) of this act by using an insurance claim data collection organization as described in section 2(2) of this act.

Sec. 4. RCW 26.23.070 and 1991 c 367 s 41 are each amended to read as follows:

(1) The employer or the employment security department may combine amounts withheld from the earnings of more than one responsible parent in a single payment to the Washington state support registry, listing separately the amount of the payment which is attributable to each individual.

(2) No employer nor employment security department that complies with a notice of payroll deduction under this chapter shall be civilly liable to the responsible parent for complying with a notice of payroll deduction under this chapter.

(3) No insurance company shall be civilly liable to the responsible parent for complying with:

(a) An order to withhold and deliver issued under RCW 74.20A.080 or with any other withholding order issued under chapter 26.23 RCW;

(b) A lien filed by the department under chapter 74.20A RCW;

or
(c) A combined lien and withholding order developed by the department to implement this act.

(4) An insurance company complying with a withholding order issued by the department or with a lien filed by the department may not be considered to be committing a violation of the insurance fair conduct act under chapter 48.30 RCW.

NEW SECTION. Sec. 5. The department may enact rules necessary to implement and administer this act.

NEW SECTION. Sec. 6. This act takes effect January 1,

2022."

On page 1, line 2 of the title, after "support;" strike the remainder of the title and insert "amending RCW 26.23.070; adding new sections to chapter 26.23 RCW; creating new sections; and providing an effective date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Law & Justice to Substitute House Bill No. 1416.

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

MOTION

On motion of Senator Pedersen, the rules were suspended, Substitute House Bill No. 1416, 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 Pedersen and Padden spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1416 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1416 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1416, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5008, by Senators Robinson, Short, Brown, Hasegawa, and Wilson, C.

Extending the business and occupation tax exemption for amounts received as credits against contracts with or funds provided by the Bonneville power administration and used for low-income ratepayer assistance and weatherization.

The measure was read the second time.

MOTION

On motion of Senator Carlyle, the rules were suspended, Senate Bill No. 5008 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carlyle spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5008.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5008 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 1; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senator Frockt

Absent: Senator Rivers

SENATE BILL NO. 5008, 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.

REMARKS BY THE PRESIDENT

President Heck: "Senator Liias, before you make your motion to adjourn, the President would like to say that were I privileged to sit where you do, having passed another cutoff, I think I might break into applause for the incredible hard work of this rostrum staff."

EDITOR'S NOTE: The Senate rose in applause.

REMARKS BY SENATOR LIAS

Senator Liias: "Thank you Mr. President, and to our Secretary and Deputy Secretary and the wonderful clerks and counsel we are deeply appreciative and I wish there were more of us here to fill this chamber with applause. I, the applause felt anemic, but that is because we couldn't hear everybody. I saw clapping onscreen."

MOTION

At 6:38 p.m., on motion of Senator Liias, the Senate adjourned until 12:30 p.m. Monday, April 12, 2021.

DENNY HECK, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

1033-S2		1423-S	
Second Reading	1	Second Reading	35
Third Reading Final Passage	2	Third Reading Final Passage	35
1069-S2.E		1472-S	
Second Reading	2	Second Reading	15
Third Reading Final Passage	3	Third Reading Final Passage	15
1139-S2.E		1502-S	
Second Reading	15	Second Reading	2
Third Reading Final Passage	17	Third Reading Final Passage	2
1140-S.E		5000-S2	
Other Action.....	7	Messages	1
Second Reading	3, 7	5008	
Third Reading Final Passage	7	Second Reading	46
1152-S2.E		Third Reading Final Passage	46
Other Action.....	26	5063	
Second Reading	18, 26, 31	Messages	1
Third Reading Final Passage	31	5080-S	
1161-S2		Messages	1
Other Action.....	18, 32	5159	
Second Reading	18	Messages	1
Third Reading	32	5367	
Third Reading Final Passage	32	Messages	1
1186-S2.E		5476	
Other Action.....	14	Committee Report.....	1
Second Reading	7, 14	CHAPLAIN OF THE DAY	
Third Reading Final Passage	15	Luhn, Mr. Bob, Pastor, Othello Church of the	
1297-S.E		Nazarene	1
Other Action.....	34, 35	FLAG BEARERS	
Second Reading	32, 34, 35	Washington State Patrol Honor Guard	1
Third Reading Final Passage	35	GUESTS	
1336-S.E		Busch Conway, Miss Anna, Pledge of	
Other Action.....	7, 44	Allegiance	1
Second Reading	36, 40, 41, 42, 43	Busch Conway, Miss Elizabeth, Pledge of	
Third Reading Final Passage	44	Allegiance	1
1416-S		PRESIDENT OF THE SENATE	
Other Action.....	46	Remarks by the President.....	46
Second Reading	36, 44	WASHINGTON STATE SENATE	
Third Reading Final Passage	46	Remarks by Senator Liias	46